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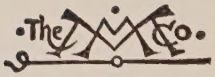
ILLUSTRATIVE OF THE

HISTORY OF THE UNITED STATES

1861–1898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SELECT STATUTES

AND OTHER DOCUMENTS

ILLUSTRATIVE OF THE

HISTORY OF THE UNITED STATES

1861–1898

EDITED WITH NOTES

BY

WILLIAM MACDONALD

PROFESSOR OF HISTORY IN BROWN UNIVERSITY

New York

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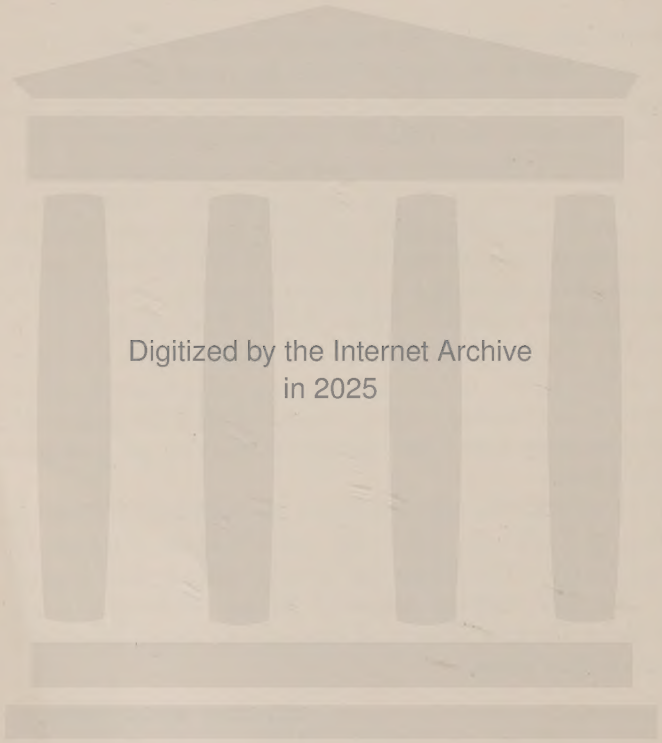
PREFACE

THIS volume completes the series of which my "Select Charters" and "Select Documents" form the other two parts. In attempting to bring together, in an orderly and consistent presentation, the chief constitutional documents of the period from 1861 to 1898, I have followed, as far as practicable, the principles which governed in the making of the "Select Documents," and which are stated in the preface to that volume. The wealth of material and the great length of many of the documents have compelled a rigorous exclusion of whatever it seemed possible to spare. I have thought it better, however, to omit entire classes of documents — for example, those relating to the public lands — rather than to give a topic, however important, only a fragmentary representation. I shall hope that the volume may make easier the systematic study of the period of which it treats.

I have to express my obligations to Professor William A. Dunning of Columbia University and Professor Charles H. Hull of Cornell University for helpful advice and suggestions. To Dr. William Jones of Brown University I am indebted for the compilation of much of the data embodied in the introductory notes.

WILLIAM MACDONALD.

PROVIDENCE, R.I.,
October, 1903.



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SELECT STATUTES

AND OTHER DOCUMENTS

ILLUSTRATIVE OF THE

HISTORY OF THE UNITED STATES

1861–1898

Select Statutes

And Other Documents Illustrative of the

History of the United States

No. 1. Call for 75,000 Volunteers

April 15, 1861

THE proclamation of April 15 was issued, under authority of the act of February 28, 1795, the day after the fall of Fort Sumter. The call on the governors of the States was made through the War Department. May 3 a further call for 42,034 volunteers to serve for three years, together with an order for the increase of the regular army and the enlistment of seamen, was issued, the action of the President being legalized by an act of August 6. An act of February 24, 1864, authorized the President to call whenever necessary for such number of volunteers as might be required.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XII, 1258. Correspondence with the governors is in the *War Records*, Series III, Vol. I, pp. 68 *seq.* For comments of the press see Moore, *Rebellion Record*, I, 64–69 of documents. See also Nicolay and Hay, *Lincoln*, I, 254–258.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA:

A PROCLAMATION.

WHEREAS the laws of the United States have been, for some time past, and now are opposed, and the execution thereof obstructed, in the States of South Carolina, Georgia, Alabama, Florida, Mississippi, Louisiana, and Texas, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by law:

Now, therefore, I, ABRAHAM LINCOLN, President of the United States, in virtue of the power in me vested by the Constitution and the laws, have thought fit to call forth, and hereby do

call forth, the militia of the several States of the Union, to the aggregate number of seventy-five thousand, in order to suppress said combinations, and to cause the laws to be duly executed.

The details for this object will be immediately communicated to the State authorities through the War Department.

I appeal to all loyal citizens to favor, facilitate, and aid this effort to maintain the honor, the integrity, and the existence of our National Union, and the perpetuity of popular government; and to redress wrongs already long enough endured.

I deem it proper to say that the first service assigned to the forces hereby called forth will probably be to repossess the forts, places, and property which have been seized from the Union; and in every event, the utmost care will be observed, consistently with the objects aforesaid, to avoid any devastation, any destruction of, or interference with, property, or any disturbance of peaceful citizens in any part of the country.

And I hereby command the persons composing the combinations aforesaid to disperse, and retire peaceably to their respective abodes within twenty days from this date.

Deeming that the present condition of public affairs presents an extraordinary occasion, I do hereby, in virtue of the power in me vested by the Constitution, convene both Houses of Congress. Senators and Representatives are therefore summoned to assemble at their respective chambers, at twelve o'clock, noon, on Thursday, the fourth day of July next, then and there to consider and determine such measures as, in their wisdom, the public safety and interest may seem to demand.

In witness whereof, I have hereunto set my hand, and caused the seal of the United States to be affixed.

Done at the City of Washington, this fifteenth day of April, in the year of our Lord one thousand eight hundred and sixty-one, and of the Independence of the United States the eighty-fifth.

[L. S.]

ABRAHAM LINCOLN.

By the President:

WILLIAM H. SEWARD, *Secretary of State.*

No. 2. Proclamation declaring a Blockade of Southern Ports

April 19, 1861

In response to the proclamation of April 15, calling for 75,000 volunteers, Jefferson Davis, as president of the Confederate States, issued, on April 17, a proclamation inviting applications for letters of marque and reprisal. The proclamation declaring a blockade of Southern ports was issued in rejoinder. By a further proclamation of April 27, the blockade was extended to the ports of Virginia and North Carolina.

References. — *Text* in *U.S. Statutes at Large*, XII, 1258, 1259. Davis's proclamation is in Moore, *Rebellion Record*, I, 71 of documents. The proclamation was upheld in the *Prize Cases*, 2 *Black*, 635.

By the President of the United States of America:

A PROCLAMATION.

Whereas an insurrection against the Government of the United States has broken out in the States of South Carolina, Georgia, Alabama, Florida, Mississippi, Louisiana, and Texas, and the laws of the United States for the collection of the revenue cannot be effectually executed therein conformably to that provision of the Constitution which requires duties to be uniform throughout the United States:

And whereas a combination of persons, engaged in such insurrection, have threatened to grant pretended letters of marque to authorize the bearers thereof to commit assaults on the lives, vessels, and property of good citizens of the country lawfully engaged in commerce on the high seas, and in waters of the United States:

And whereas an Executive Proclamation has been already issued, requiring the persons engaged in these disorderly proceedings to desist therefrom, calling out a militia force for the purpose of repressing the same, and convening Congress in extraordinary session to deliberate and determine thereon:

Now, therefore, I, ABRAHAM LINCOLN, President of the United States, with a view to the same purposes before mentioned,

and to the protection of the public peace, and the lives and property of quiet and orderly citizens pursuing their lawful occupations, until Congress shall have assembled and deliberated on the said unlawful proceedings, or until the same shall have ceased, have further deemed it advisable to set on foot a blockade of the ports within the States aforesaid, in pursuance of the laws of the United States and of the law of nations in such case provided. For this purpose a competent force will be posted so as to prevent entrance and exit of vessels from the ports aforesaid. If, therefore, with a view to violate such blockade, a vessel shall approach, or shall attempt to leave either of the said ports, she will be duly warned by the commander of one of the blockading vessels, who will indorse on her register the fact and date of such warning, and if the same vessel shall again attempt to enter or leave the blockaded port, she will be captured and sent to the nearest convenient port, for such proceedings against her and her cargo as prize, as may be deemed advisable.

And I hereby proclaim and declare that if any person, under the pretended authority of the said States, or under any other pretence, shall molest a vessel of the United States, or the persons or cargo on board of her, such person will be held amenable to the laws of the United States for the prevention and punishment of piracy.

* * * * * * * .

No. 3. Act for the Collection of Duties

July 13, 1861

In his report of July 4, 1861, the Secretary of the Treasury, Chase, called the attention of Congress to the fact that "at the ports of several States of the Union the collection of lawful duties on imports has been forcibly obstructed and prevented for several months;" and the draft of a bill "to provide for the collection of duties on imports" was submitted. A bill for the purpose was reported by the House Committee on Commerce July 9, and the next day, by a vote of 136 to 10, was read a third time and passed. The bill passed the Senate with only a verbal amendment on the 12th, by a vote of 36 to 6, and on the 13th the act was approved. In conformity with the

provisions of section five of the act, President Lincoln, on August 16, issued a proclamation declaring the inhabitants of Georgia, South Carolina, Virginia, North Carolina, Tennessee, Alabama, Louisiana, Texas, Arkansas, Mississippi, and Florida, "except the inhabitants of that part of the State of Virginia lying west of the Alleghany mountains, and of such other parts of that State and the other States . . . named as may maintain a loyal adhesion to the Union and the Constitution, or may be, from time to time, occupied and controlled by forces of the United States engaged in the dispersion of such insurgents," to be in insurrection. The provisions of the act were made still more stringent by an act of May 20, 1862.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XII, 255–258. For the proceedings see the *House and Senate Journals* and the *Congressional Globe*, 37th Cong., 1st Sess. The report of the Secretary of the Treasury is in the *Globe*, Appendix; see also a letter from Chase explaining the necessity for, and asserting the constitutionality of, the proposed measure, *ibid.*, proceedings of July 10. For a report of February 21 on the same subject see *House Exec. Doc. 72*, 36th Cong., 2d Sess.

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An Act further to provide for the Collection of Duties on Imports, and for other Purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever it shall in the judgment of the President, by reason of unlawful combinations of persons in opposition to the laws of the United States, become impracticable to execute the revenue laws and collect the duties on imports by the ordinary means, in the ordinary way, at any port of entry in any collection district, he is authorized to cause such duties to be collected at any port of delivery in said district until such obstruction shall cease; and in such case the surveyors at said ports of delivery shall be clothed with all the powers, and be subject to all the obligations of collectors at ports of entry; and the Secretary of the Treasury, with the approbation of the President, shall appoint such number of weighers, gaugers, measurers, inspectors, appraisers, and clerks as may be necessary, in his judgment, for the faithful execution of the revenue laws at said ports of delivery, and shall fix and establish the limits within which such ports of delivery are constituted ports of entry, as aforesaid; and all the provisions of law regulating the issue of

marine papers, the coasting trade, the warehousing of imports, and collection of duties, shall apply to the ports of entry so constituted, in the same manner as they do to ports of entry established by the laws now in force.

SEC. 2. *And be it further enacted*, That if, from the cause mentioned in the foregoing section, in the judgment of the President, the revenue from duties on imports cannot be effectually collected at any port of entry in any collection district, in the ordinary way, and by the ordinary means, or by the course provided in the foregoing section, then and in that case he may direct that the custom-house for the district be established in any secure place within said district, either on land or on board any vessel in said district or at sea near the coast; and in such case the collector shall reside at such place, or on shipboard, as the case may be, and there detain all vessels and cargoes arriving within or approaching said district, until the duties imposed by law on said vessels and their cargoes are paid in cash: *Provided*, That if the owner or consignee of the cargo on board any vessel detained as aforesaid, or the master of said vessel shall desire to enter a port of entry in any other district in the United States where no such obstructions to the execution of the laws exist, the master of such vessel may be permitted so to change the destination of the vessel and cargo in his manifest, whereupon the collector shall deliver him a written permit to proceed to the port so designated: *And, provided further*, That the Secretary of the Treasury shall, with the approbation of the President, make proper regulations for the enforcement on shipboard of such provisions of the laws regulating the assessment and collection of duties as in his judgment may be necessary and practicable.

SEC. 3. *And be it further enacted*, That it shall be unlawful to take any vessel or cargo detained as aforesaid from the custody of the proper officers of the customs, unless by process of some court of the United States; and in case of any attempt otherwise to take such vessel or cargo by any force, or combination, or assemblage of persons, too great to be overcome by the officers of the customs, it shall and may be lawful for the President, or such person

or persons as he shall have empowered for that purpose, to employ such part of the army or navy or militia of the United States, or such force of citizen volunteers as may be deemed necessary for the purpose of preventing the removal of such vessel or cargo, and protecting the officers of the customs in retaining the custody thereof.

SEC. 4. *And be it further enacted*, That if, in the judgment of the President, from the cause mentioned in the first section of this act, the duties upon imports in any collection district cannot be effectually collected by the ordinary means and in the ordinary way, or in the mode and manner provided in the foregoing sections of this act, then and in that case the President is hereby empowered to close the port or ports of entry in said district, and in such case give notice thereof by proclamation; and thereupon all right of importation, warehousing, and other privileges incident to ports of entry shall cease and be discontinued at such port so closed, until opened by the order of the President on the cessation of such obstructions; and if, while said ports are so closed, any ship or vessel from beyond the United States, or having on board any articles subject to duties, shall enter or attempt to enter any such port, the same, together with its tackle, apparel, furniture, and cargo, shall be forfeited to the United States.

SEC. 5. *And be it further enacted*, That whenever the President, in pursuance of the provisions of the second section of the act entitled "An act to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, and to repeal the act now in force for that purpose," approved February twenty-eight, seventeen hundred and ninety-five, shall have called forth the militia to suppress combinations against the laws of the United States, and to cause the laws to be duly executed, and the insurgents shall have failed to disperse by the time directed by the President, and when said insurgents claim to act under the authority of any State or States, and such claim is not disclaimed or repudiated by the persons exercising the functions of government in such State or States, or in the part or parts thereof in which said combination exists, nor such insurrection

suppressed by said State or States, then and in such case it may and shall be lawful for the President, by proclamation, to declare that the inhabitants of such State, or any section or part thereof, where such insurrection exists, are in a state of insurrection against the United States;[1] and thereupon all commercial intercourse by and between the same and the citizens thereof and the citizens of the rest of the United States shall cease and be unlawful so long as such condition of hostility shall continue; and all goods and chattels, wares and merchandise, coming from said State or section into the other parts of the United States, and all proceeding to such State or section, by land or water, shall, together with the vessel or vehicle conveying the same, or conveying persons to or from such State or section, be forfeited to the United States: *Provided, however*, That the President may, in his discretion, license and permit commercial intercourse with any such part of said State or section, the inhabitants of which are so declared in a state of insurrection, in such articles, and for such time, and by such persons, as he, in his discretion, may think most conducive to the public interest; and such intercourse, so far as by him licensed, shall be conducted and carried on only in pursuance of rules and regulations prescribed by the Secretary of the Treasury. And the Secretary of the Treasury may appoint such officers at places where officers of the customs are not now authorized by law as may be needed to carry into effect such licenses, rules and regulations; and officers of the customs and other officers shall receive for services under this section, and under said rules and regulations, such fees and compensation as are now allowed for similar service under other provisions of law.

SEC. 6. *And be it further enacted*, That from and after fifteen days after the issuing of the said proclamation, as provided in the last foregoing section of this act, any ship or vessel belonging in whole or in part to any citizen or inhabitant of said State or part

[1] By an act of July 31, 1861, chap. 32, it was further provided "that the power of the President to declare the inhabitants of any State, or any part thereof, in a state of insurrection, as provided in the fifth section" of the above act, "shall extend to and include the inhabitants of any State, or part thereof, where such insurrection against the United States shall be found by the President at any time to exist."

of a State whose inhabitants are so declared in a state of insurrection, found at sea, or in any port of the rest of the United States, shall be forfeited to the United States.

SEC. 7. [The navy may be used to execute the revenue laws.]

SEC. 8. [Penalties may be mitigated or remitted.]

SEC. 9. *And be it further enacted*, That proceedings on seizures for forfeitures under this act may be pursued in the courts of the United States in any district into which the property so seized may be taken and proceedings instituted; and such courts shall have and entertain as full jurisdiction over the same as if the seizure was made in that district.

APPROVED, July 13, 1861.

No. 4. Act for a National Loan

July 17, 1861

IN his message of July 4, 1861, Lincoln asked Congress for "at least" 400,000 men and $400,000,000 as "the legal means for making this contest a short and a decisive one." The Secretary of the Treasury, Chase, in his report of the same date, recommended loans to the aggregate amount of $250,000,000, and submitted the draft of a bill for that purpose. A bill to authorize a national loan was introduced in the House by Thaddeus Stevens of Pennsylvania, from the Committee of Ways and Means, July 9, and on the following day passed by a vote of 153 to 5. The Senate made a number of amendments, all of which were concurred in by the House, and on the 17th the act was approved.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XII, 259–261. For the proceedings see the *House and Senate Journals* and the *Cong. Globe*, 37th Cong., 1st Sess. Chase's report of July 4 is in the *Globe*, Appendix. On the condition of the treasury see *House Misc. Doc. 20*, 36th Cong., 2d Sess. On the general subject see Dewey, *Financial History of the United States*, chap. 13, and references there given.

An Act to authorize a National Loan and for other Purposes.

Be it enacted . . ., That the Secretary of the Treasury be, and he is hereby, authorized to borrow on the credit of the

United States, within twelve months from the passage of this act, a sum not exceeding two hundred and fifty millions of dollars, or so much thereof as he may deem necessary for the public service, for which he is authorized to issue coupon bonds, or registered bonds, or treasury notes, in such proportions of each as he may deem advisable; the bonds to bear interest not exceeding seven per centum per annum, payable semi-annually, irredeemable for twenty years, and after that period redeemable at the pleasure of the United States; and the treasury notes to be of any denomination fixed by the Secretary of the Treasury, not less than fifty dollars, and to be payable three years after date, with interest at the rate of seven and three tenths per centum per annum, payable semi-annually. And the Secretary of the Treasury may also issue in exchange for coin, and as part of the above loan, or may pay for salaries or other dues from the United States, treasury notes of a less denomination than fifty dollars, not bearing interest, but payable on demand by the Assistant Treasurers of the United States at Philadelphia, New York, or Boston, or treasury notes bearing interest at the rate of three and sixty-five hundredths per centum, payable in one year from date, and exchangeable at any time for treasury notes for fifty dollars, and upwards, issuable under the authority of this act, and bearing interest as specified above: *Provided*, That no exchange of such notes in any less amount than one hundred dollars shall be made at any one time: *And provided further*, That no treasury notes shall be issued of a less denomination than ten dollars, and that the whole amount of treasury notes, not bearing interest, issued under the authority of this act, shall not exceed fifty millions of dollars.

SEC. 2. [Notes and bonds, how signed, how transferable, etc.]

SEC. 3. [Books to be opened for subscription for treasury notes for $50 and over, etc.] And the Secretary of the Treasury is also authorized, if he shall deem it expedient, before opening books of subscription as above provided, to exchange for coin or pay for public dues or for treasury notes of the issue of twenty-third of December, eighteen hundred and

fifty-seven, and falling due on the thirtieth of June, eighteen hundred and sixty-one, or for treasury notes issued and taken in exchange for such notes, any amount of said treasury notes for fifty dollars or upwards not exceeding one hundred millions of dollars.

SEC. 4. [Proposals for loan to be published; most favorable offers to be accepted, but at not less than par.]

SEC. 5. *And be it further enacted*, That the Secretary of the Treasury may, if he deem it advisable, negotiate any portion of said loan, not exceeding one hundred millions of dollars, in any foreign country and payable at any designated place either in the United States or in Europe, and may issue registered or coupon bonds for the amount thus negotiated agreeably to the provisions of this act, bearing interest payable semi-annually, either in the United States or at any designated place in Europe; . . .

SEC. 6. *And be it further enacted*, That whenever any treasury notes of a denomination less than fifty dollars, authorized to be issued by this act, shall have been redeemed, the Secretary of the Treasury may re-issue the same, or may cancel them and issue new notes to an equal amount: *Provided*, That the aggregate amount of bonds and treasury notes issued under the foregoing provisions of this act shall never exceed the full amount authorized by the first section of this act; and the power to issue, or re-issue such notes shall cease and determine after the thirty-first of December, eighteen hundred and sixty-two.

SEC. 7. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized, whenever he shall deem it expedient, to issue in exchange for coin, or in payment for public dues, treasury notes of any of the denominations hereinbefore specified, bearing interest not exceeding six per centum per annum, and payable at any time not exceeding twelve months from date, provided that the amount of notes so issued, or paid, shall at no time exceed twenty millions of dollars.

SEC. 8. [The Secretary of the Treasury to make report to Congress of operations under the act.]

Sec. 9. *And be it further enacted*, That the faith of the United States is hereby solemnly pledged for the payment of the interest and redemption of the principal of the loan authorized by this act.

Sec. 10. *And be it further enacted*, That all the provisions of the act entitled "An act to authorize the issue of treasury notes," approved the twenty-third day of December, eighteen hundred and fifty-seven, so far as the same can or may be applied to the provisions of this act, and not inconsistent therewith, are hereby revived or re-enacted.

Sec. 11. [Appropriation of $200,000 for expenses under the act.]

Approved, July 17, 1861.

No. 5. Act authorizing the Employment of Volunteers

July 22, 1861

A bill to authorize the employment of volunteers, in accordance with the recommendation of President Lincoln in his message of July 4, 1861, was introduced in the Senate, July 6, by Henry Wilson of Massachusetts, and passed that house on the 10th by a vote of 34 to 4. On the 12th the action was reconsidered, and the bill with further amendments was again passed by a vote of 35 to 4. The passage of a substitute bill by the House caused a reference of the matter to a conference committee, whose report was agreed to by the two houses on the 18th. The discussion in each house had to do mainly with the details of organization of the volunteers provided for by the bill.

References. — *Text* in *U.S. Statutes at Large*, XII, 268–271. For the debates see the *House and Senate Journals* and *Cong. Globe*, 37th Cong., 1st Sess. On the efficiency of volunteers and the condition of the militia see *House Exec. Doc. 54* and *House Report 58*, 36th Cong., 2d Sess., and *House Report 1*, 37th Cong., 1st Sess. A summary view of early military legislation, Union and Confederate, is given in McPherson, *History of the Rebellion*, 115–121.

An Act to authorize the Employment of Volunteers to aid in enforcing the Laws and protecting Public Property.

Whereas, certain of the forts, arsenals, custom-houses, navy yards, and other property of the United States have been

seized, and other violations of law have been committed and are threatened by organized bodies of men in several of the States, and a conspiracy has been entered into to overthrow the Government of the United States: Therefore,

Be it enacted . . ., That the President be, and he is hereby, authorized to accept the services of volunteers, either as cavalry, infantry, or artillery, in such numbers, not exceeding five hundred thousand, as he may deem necessary, for the purpose of repelling invasion, suppressing insurrection, enforcing the laws, and preserving and protecting the public property: *Provided*, That the services of the volunteers shall be for such time as the President may direct, not exceeding three years nor less than six months,[1] and they shall be disbanded at the end of the war. And all provisions of law applicable to three years' volunteers shall apply to two years' volunteers, and to all volunteers who have been, or may be, accepted into the service of the United States, for a period not less than six months, in the same manner as if such volunteers were specially named. Before receiving into service any number of volunteers exceeding those now called for and accepted, the President shall, from time to time, issue his proclamation, stating the number desired, either as cavalry, infantry, or artillery, and the States from which they are to be furnished, having reference, in any such requisition, to the number then in service from the several States, and to the exigencies of the service at the time, and equalizing, as far as practicable, the number furnished by the several States, according to Federal population.[2]

SEC. 2. *And be it further enacted*, That the said volunteers shall be subject to the rules and regulations governing the army of the United States, and that they shall be formed, by the President, into regiments of infantry, with the exception of such

[1] A supplementary act of July 25, 1861, provided that volunteers should "be mustered in for 'during the war.'"

[2] An act of July 31, 1861, provided that the President, in accepting and organizing volunteers under this act, "may accept the service of such volunteers without previous proclamation, and in such numbers from any State or States as, in his discretion, the public service may require."

numbers for cavalry and artillery, as he may direct, not to exceed the proportion of one company of each of those arms to every regiment of infantry, and to be organized as in the regular service. . . .

[The remainder of the act relates to the organization of the volunteers, the appointment of officers, etc.]

No. 6. Resolution on the Nature and Object of the War

July 22, 1861

A RESOLUTION declaratory of the nature and object of the war was offered in the House, July 22, 1861, by John J. Crittenden of Kentucky. In the vote the resolution was divided, the first part, through the word "capital," being adopted by a vote of 122 to 2, and the remainder by a vote of 117 to 2. A resolution in practically identical terms was offered in the Senate, July 24, by Andrew Johnson of Tennessee, and on the 25th, after a long discussion, was adopted, the vote being 30 to 5. The resolutions, which "gave expression to the common sentiment of the country," were the only formal declarations out of a great number submitted which passed the houses.

REFERENCES. — *Text* in *House Journal*, 37th Cong., 1st Sess., 123. For the debates see the *Cong. Globe*. A list of the principal declaratory resolutions submitted, with the action on each, is given in McPherson, *Rebellion*, 285–290.

Resolved . . ., That the present deplorable civil war has been forced upon the country by the disunionists of the southern States, now in arms against the constitutional government, and in arms around the capital; that in this national emergency, Congress, banishing all feelings of mere passion or resentment, will recollect only its duty to the whole country; that this war is not waged on their part in any spirit of oppression, or for any purpose of conquest or subjugation, or purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the *supremacy* of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and that as soon as these objects are accomplished the war ought to cease.

No. 7. Indemnity for State War Expenses

July 27, 1861

A BILL "to indemnify the States for expenses incurred by them in defense of the United States" was introduced in the House by Valentine B. Horton of Ohio, July 22, considered under suspension of the rules, and passed. The bill passed the Senate on the 25th without a division, and on the 27th the act was approved. The refunding of duties on arms imported by States was provided for by acts of July 10 and July 25, the scope of the latter act being extended, by a joint resolution of March 8, 1862, to importations prior to the date of the act.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XII, 276. The record of proceedings is unimportant. On the war debts of the loyal States see *House Report 16*, 39th Cong., 1st Sess.

An Act to indemnify the States for Expenses incurred by them in Defence of the United States.

Be it enacted . . ., That the Secretary of the Treasury be, and he is hereby, directed, out of any money in the Treasury not otherwise appropriated, to pay to the Governor of any State, or to his duly authorized agents, the costs, charges, and expenses properly incurred by such State for enrolling, subsisting, clothing, supplying, arming, equipping, paying, and transporting its troops employed in aiding to suppress the present insurrection against the United States, to be settled upon proper vouchers, to be filed and passed upon by the proper accounting officers of the Treasury.

APPROVED, July 27, 1861.

No. 8. Act for calling out the Militia

July 29, 1861

A BILL "to provide for the suppression of rebellion," etc., was introduced in the House, July 10, by John A. Bingham of Ohio, and on the 16th passed without a division. The bill passed the Senate on the 26th, and on the 29th the act was approved.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XII, 281, 282. For the proceedings see the *House and Senate Journals* and the *Cong. Globe*. The changes made by the act are set forth in the House proceedings of July 16; compare President Buchanan's remarks on the employment of the militia under the acts of 1795 and 1807, in his annual message of December 3, 1860.

An Act to provide for the Suppression of Rebellion against and Resistance to the Laws of the United States, and to amend the Act entitled "An Act to provide for calling forth the Militia to execute the Laws of the Union," &c., passed February twenty-eight, seventeen hundred and ninety-five.

Be it enacted . . ., That whenever, by reason of unlawful obstructions, combinations, or assemblages of persons, or rebellion against the authority of the Government of the United States, it shall become impracticable, in the judgment of the President of the United States, to enforce, by the ordinary course of judicial proceedings, the laws of the United States within any State or Territory of the United States, it shall be lawful for the President of the United States to call forth the militia of any or all the States of the Union, and to employ such parts of the land and naval forces of the United States as he may deem necessary to enforce the faithful execution of the laws of the United States, or to suppress such rebellion in whatever State or Territory thereof the laws of the United States may be forcibly opposed, or the execution thereof forcibly obstructed.

SEC. 2. *And be it further enacted*, That whenever, in the judgment of the President, it may be necessary to use the military force hereby directed to be employed and called forth by him, the President shall forthwith, by proclamation, command such insurgents to disperse and retire peaceably to their respective abodes, within a limited time.

SEC. 3. *And be it further enacted*, That the militia so called into the service of the United States shall be subject to the same rules and articles of war as the troops of the United States, and be continued in the service of the United States until discharged by proclamation of the President: *Provided*, That such continuance in service shall not extend beyond sixty days after the

commencement of the next regular session of Congress, unless Congress shall expressly provide by law therefor: . . .

SEC. 4. [Penalty for disobedience of orders of President.]

SEC. 5. *And be it further enacted*, That courts-martial for the trial of militia shall be composed of militia officers only.

SEC. 6. [Fines, how collected and paid.]

SEC. 7. *And be it further enacted*, That the marshals of the several districts of the United States, and their deputies, shall have the same powers in executing the laws of the United States as sheriffs and their deputies in the several States, have by law, in executing the laws of the respective States.

SEC. 8. *And be it further enacted*, That sections two, three, and four of the act . . . [of February 28, 1795,] . . . and so much of the residue of said act and of all other acts as conflict with this act are hereby repealed.

APPROVED, July 29, 1861.

No. 9. Act to define and punish certain Conspiracies

July 31, 1861

A BILL "to define and punish certain conspiracies" was presented in the House, July 15, by John Hickman of Pennsylvania, and passed by a vote of 123 to 7. In the Senate the printing of a minority report submitted by Bayard of Delaware and Powell of Kentucky was refused by a vote of 10 to 29, and on the 26th the bill in amended form passed the Senate. Nine Senators entered a protest against the bill. The amendment of the Senate was concurred in by the House on the 30th, and the next day the act was approved.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XII, 284. The important proceedings are those of the Senate for July 24 and 26 (*Cong. Globe*, 37th Cong., 1st Sess.).

An Act to define and punish certain Conspiracies.

Be it enacted . . ., That if two or more persons within any State or Territory of the United States shall conspire together to overthrow, or to put down, or to destroy by force, the Govern-

ment of the United States, or to levy war against the United States, or to oppose by force the authority of the Government of the United States; or by force to prevent, hinder, or delay the execution of any law of the United States; or by force to seize, take, or possess any property of the United States against the will or contrary to the authority of the United States; or by force, or intimidation, or threat to prevent any person from accepting or holding any office, or trust, or place of confidence, under the United States; each and every person so offending shall be guilty of a high crime, and upon conviction thereof in any district or circuit court of the United States, having jurisdiction thereof, or district or supreme court of any Territory of the United States having jurisdiction thereof, shall be punished by a fine not less than five hundred dollars and not more than five thousand dollars; or by imprisonment, with or without hard labor, as the court shall determine, for a period not less than six months nor greater than six years, or by both such fine and imprisonment.

APPROVED, July 31, 1861.

No. 10. Supplementary National Loan Act

August 5, 1861

A BILL for the amendment of the loan act of July 17 [No. 4], 1861, was reported by William P. Fessenden of Maine, from the Senate Committee on Finance, July 22, and passed the Senate the same day. The Committee of Ways and Means of the House reported the bill on the 25th with amendments, the most important of which authorized the payment of interest at nine per cent on treasury notes, and pledged the receipts from certain duties for the payment of the loan. The Senate, on the 20th, struck out both of these provisions, and added the section authorizing the issue of five dollar treasury notes. The bill received its final form from a conference committee, which inserted the section suspending in part the subtreasury act of 1846. The report of the conference committee was agreed to by the Senate without a division, and by the House by a vote of 83 to 34.

REFERENCES.— *Text* in *U.S. Statutes at Large*, XII, 313, 314. For the proceedings see the *House and Senate Journals*, 37th Cong., 1st Sess., and the *Cong. Globe*.

An Act supplementary to an Act entitled "An Act to authorize a National Loan, and for other Purposes."

Be it enacted . . ., That the Secretary of the Treasury is hereby authorized to issue bonds of the United States, bearing interest at six per centum per annum, and payable at the pleasure of the United States after twenty years from date; and if any holder of Treasury notes, bearing interest at the rate of seven and three-tenths per centum, which may be issued under the authority of the act to authorize a national loan and for other purposes, approved July seventeenth, eighteen hundred and sixty-one, shall desire to exchange the same for said bonds, the Secretary of the Treasury may, at any time before or at the maturity of said Treasury notes, issue to said holder, in payment thereof, an amount of said bonds equal to the amount which, at the time of such payment or exchange, may be due on said Treasury notes; but no such bonds shall be issued for a less sum than five hundred dollars, nor shall the whole amount of such bonds exceed the whole amount of Treasury notes bearing seven and three-tenths per centum interest, issued under said act; and any part of the Treasury notes payable on demand, authorized by said act, may be made payable by the Assistant Treasurer at Saint Louis, or by the depositary at Cincinnati.

SEC. 2. [Treasury notes, how executed; need not have seal.]

SEC. 3. *And be it further enacted*, That so much of the act to which this is supplementary as limits the denomination of a portion of the Treasury notes authorized by said act at not less than ten dollars, be and is so modified as to authorize the Secretary of the Treasury to fix the denomination of said notes at not less than five dollars.[1]

SEC. 4. [Additional appropriation of $100,000 for expenses under the act.]

SEC. 5. *And be it further enacted*, That the Treasury notes authorized by the act to which this is supplementary, of a less

[1] An act of February 12, 1862, authorized an additional issue of $10,000,000 in notes of denominations not less than five dollars, the same to be deemed a part of the loan of $250,000,000 authorized by the act of July 17, 1861.

denomination than fifty dollars, payable on demand without interest, and not exceeding in amount the sum of fifty millions of dollars, shall be receivable in payment of public dues.

SEC. 6. *And be it further enacted*, That the provisions of the act entitled "An Act to provide for the better organization of the Treasury, and for the collection, safe-keeping, transfer, and disbursements of the public revenue," passed August six, eighteen hundred and forty-six, be and the same are hereby suspended, so far as to allow the Secretary of the Treasury to deposit any of the moneys obtained on any of the loans now authorized by law, to the credit of the Treasurer of the United States, in such solvent specie-paying banks as he may select; and the said moneys, so deposited, may be withdrawn from such deposit for deposit with the regular authorized depositaries, or for the payment of public dues, or paid in redemption of the notes authorized to be issued under this act, or the act to which this is supplementary, payable on demand, as may seem expedient to, or be directed by, the Secretary of the Treasury.

SEC. 7. *And be it further enacted*, That the Secretary of the Treasury may sell or negotiate, for any portion of the loan provided for in the act to which this is supplementary, bonds payable not more than twenty years from date, and bearing interest not exceeding six per centum per annum, payable semi-annually, at any rate not less than the equivalent of par, for the bonds bearing seven per centum interest, authorized by said act.

APPROVED, August 5, 1861.

No. 11. Confiscation Act

August 6, 1861

A BILL "to confiscate property used for insurrectionary purposes" was introduced in the Senate, July 15, by Lyman Trumbull of Illinois. When the bill was reported by the Committee on the Judiciary, on the 25th, Trumbull proposed an additional section, embodying in a shorter form the provisions of section four of the act. The amended bill passed the Senate July 22. The proposed forfeiture of the claims of owners to such of their slaves as had been

compelled to work in aid of the rebellion aroused strong opposition in the House, but an amendment in the form of a substitute for the final section of the Senate bill, being section four of the act as passed, was agreed to, August 3, by a vote of 60 to 48. By a vote of 24 to 11 the Senate concurred in the amendment of the House, and on the 6th the act was approved. The Confiscation Act was the first legislative step towards emancipation.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XII, 319. For the proceedings see the *House and Senate Journals*, 37th Cong., 1st Sess., and the *Cong. Globe*. For the retaliatory act of the Confederate Congress, August 30, see *Confederate Statutes at Large*, 201; on this act see Rhodes, *United States*, III, 465, note 2. On Butler's course see *Butler's Book*, 256 *seq.*, and *War Records*, Series I, Vol. I, 53; see also Nicolay and Hay, *Lincoln*, IV, 389 *seq.*

An Act to confiscate Property used for Insurrectionary Purposes.

Be it enacted . . ., That if, during the present or any future insurrection against the Government of the United States, after the President of the United States shall have declared, by proclamation, that the laws of the United States are opposed, and the execution thereof obstructed, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the power vested in the marshals by law, any person or persons, his, her, or their agent, attorney, or employé, shall purchase or acquire, sell or give, any property of whatsoever kind or description, with intent to use or employ the same, or suffer the same to be used or employed, in aiding, abetting, or promoting such insurrection or resistance to the laws, or any person or persons engaged therein; or if any person or persons, being the owner or owners of any such property, shall knowingly use or employ, or consent to the use or employment of the same as aforesaid, all such property is hereby declared to be lawful subject of prize and capture wherever found; and it shall be the duty of the President of the United States to cause the same to be seized, confiscated, and condemned.

SEC. 2. *And be it further enacted*, That such prizes and capture shall be condemned in the district or circuit court of the United States having jurisdiction of the amount, or in admiralty in any district in which the same may be seized, or into which they may be taken and proceedings first instituted.

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SEC. 3. *And be it further enacted*, That the Attorney-General, or any district attorney of the United States in which said property may at the time be, may institute the proceedings of condemnation, and in such case they shall be wholly for the benefit of the United States; or any person may file an information with such attorney, in which case the proceedings shall be for the use of such informer and the United States in equal parts.

SEC. 4. *And be it further enacted*, That whenever hereafter, during the present insurrection against the Government of the United States, any person claimed to be held to labor or service under the law of any State, shall be required or permitted by the person to whom such labor or service is claimed to be due, or by the lawful agent of such person, to take up arms against the United States, or shall be required or permitted by the person to whom such labor or service is claimed to be due, or his lawful agent, to work or to be employed in or upon any fort, navy yard, dock, armory, ship, entrenchment, or in any military or naval service whatsoever, against the Government and lawful authority of the United States, then, and in every such case, the person to whom such labor or service is claimed to be due shall forfeit his claim to such labor, any law of the State or of the United States to the contrary notwithstanding. And whenever thereafter the person claiming such labor or service shall seek to enforce his claim, it shall be a full and sufficient answer to such claim that the person whose service or labor is claimed had been employed in hostile service against the Government of the United States, contrary to the provisions of this act.

APPROVED, August 6, 1861.

No. 12. Act authorizing the Seizure of Railroad and Telegraph Lines

January 31, 1862

IN his report of July 1, 1861, the Secretary of War, Cameron, stated that the resistance to the passage of troops through Baltimore, the destruction of

bridges on certain railroads, and the refusal of the Baltimore and Ohio Railroad Company to transport government forces and supplies, had made it necessary "to take possession of so much of the railway lines as was required to form a connection with the States from which troops and supplies were expected;" and an appropriation for the construction and operation, when necessary, of railroad and telegraph lines was recommended. Further specific recommendations for construction were made in the annual report of December 1. A bill in accordance with the earlier recommendation was reported to the Senate, January 22, by Benjamin F. Wade of Ohio, from the Joint Committee on the Conduct of the War, and passed with amendments on the 28th by a vote of 23 to 12. The next day, by a vote of 113 to 28, the bill passed the House, and on the 31st the act was approved. An order taking military possession of all railroads was issued May 25.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XII, 334, 335. For the proceedings see the *House and Senate Journals*, 37th Cong., 2d Sess., and the *Cong. Globe*. The debate in the Senate is of most importance. Cameron's report of 1861 is in the *Globe*, Appendix.

An Act to authorize the President of the United States in certain Cases to take Possession of Railroad and Telegraph Lines, and for other Purposes.

Be it enacted . . ., That the President of the United States, when in his judgment the public safety may require it, be, and he is hereby authorized to take possession of any or all the telegraph lines in the United States, their offices and appurtenances; to take possession of any or all the railroad lines in the United States, their rolling-stock, their offices, shops, buildings, and all their appendages and appurtenances; to prescribe rules and regulations for the holding, using, and maintaining of the aforesaid telegraph and railroad lines, and to extend, repair, and complete the same,[1] in the manner most conducive to the safety and interest of the Government; to place under military control all the officers, agents, and employés belonging to the telegraph and railroad lines thus taken possession of by the President, so that they shall be considered as a post road and a part of the military establishment of the United States, subject to all the restrictions imposed by the rules and articles of war.

1 By a joint resolution of July 14, 1862, so much of the act as authorized the construction, extension, or completion of any railroad was repealed.

SEC. 2. *And be it further enacted*, That any attempt by any party or parties whomsoever, in any State or District in which the laws of the United States are opposed, or the execution thereof obstructed by insurgents and rebels against the United States, too powerful to be suppressed by the ordinary course of judicial proceedings, to resist or interfere with the unrestrained use by Government of the property described in the preceding section, or any attempt to injure or destroy the property aforesaid, shall be punished as a military offence, by death, or such other penalty as a court-martial may impose.

SEC. 3. *And be it further enacted*, That three commissioners shall be appointed by the President of the United States, by and with the advice and consent of the Senate, to assess and determine the damages suffered, or the compensation to which any railroad or telegraph company may be entitled by reason of the railroad or telegraph line being seized and used under the authority conferred by this act, and their award shall be submitted to Congress for their action.

SEC. 4. *And be it further enacted*, That the transportation of troops, munitions of war, equipments, military property and stores, throughout the United States, shall be under the immediate control and supervision of the Secretary of War and such agents as he may appoint; and all rules, regulations, articles, usages, and laws in conflict with this provision are hereby annulled.

SEC. 5. *And be it further enacted*, . . . that the provisions of this act, so far as it relates to the operating and using said railroads and telegraphs, shall not be in force any longer than is necessary for the suppression of this rebellion.

APPROVED, January 31, 1862.

No. 13. Act prohibiting the Coolie Trade

February 19, 1862

A BILL to prohibit the coolie trade by American citizens was introduced in the House, December 5, 1861, by Thomas D. Eliot of Massachusetts, and

passed the House with amendments January 15. January 31, with further amendments, it passed the Senate. The House concurred in the Senate amendments February 14, and on the 19th the act was approved. The provisions of the act were extended to Japanese and other oriental coolies by act of February 9, 1869. An act of March 3, 1875, chap. 141, sec. 4, imposed penalties for contracting to import coolies, etc.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XII, 340, 341. For the proceedings see the *House and Senate Journals*, 37th Cong., 2d Sess., and the *Cong. Globe*.

An Act to prohibit the "Coolie Trade" by American Citizens in American Vessels.

Be it enacted . . ., That no citizen or citizens of the United States, or foreigner coming into or residing within the same, shall, for himself or for any other person whatsoever, either as master, factor, owner, or otherwise, build, equip, load, or otherwise prepare, any ship or vessel, or any steamship or steam-vessel, registered, enrolled, or licensed, in the United States, or any port within the same, for the purpose of procuring from China, or from any port or place therein, or from any other port or place the inhabitants or subjects of China, known as "coolies," to be transported to any foreign country, port, or place whatever, to be disposed of, or sold, or transferred, for any term of years or for any time whatever, as servants or apprentices, or to be held to service or labor. And if any ship or vessel, steamship, or steam-vessel, belonging in whole or in part to citizens of the United States, and registered, enrolled, or otherwise licensed as aforesaid, shall be employed for the said purposes, or in the "coolie trade," so called, or shall be caused to procure or carry from China or elsewhere, as aforesaid, any subjects of the Government of China for the purpose of transporting or disposing of them as aforesaid, every such ship or vessel, steamship, or steam-vessel, her tackle, apparel, furniture, and other appurtenances, shall be forfeited to the United States, and shall be liable to be seized, prosecuted, and condemned in any of the circuit courts or district courts of the United States for the district where the said ship or vessel, steamship, or steam-vessel, may be found, seized, or carried.

SEC. 2. *And be it further enacted,* That every person who shall so build, fit out, equip, load, or otherwise prepare, or who shall send to sea, or navigate, as owner, master, factor, agent, or otherwise, any ship or vessel, steamship, or steam-vessel, belonging in whole or in part to citizens of the United States, or registered, enrolled, or licensed within the same, or at any port thereof, knowing or intending that the same shall be employed in that trade or business aforesaid, contrary to the true intent and meaning of this act, or in anywise aiding or abetting therein, shall be severally liable to be indicted therefor, and, on conviction thereof, shall be liable to a fine not exceeding two thousand dollars and be imprisoned not exceeding one year.

SEC. 3. *And be it further enacted,* That if any citizen or citizens of the United States shall, contrary to the true intent and meaning of this act, take on board of any vessel, or receive or transport any such persons as are above described in this act, for the purpose of disposing of them as aforesaid, he or they shall be liable to be indicted therefor, and, on conviction thereof, shall be liable to a fine not exceeding two thousand dollars and be imprisoned not exceeding one year.

SEC. 4. *And be it further enacted,* That nothing in this act hereinbefore contained shall be deemed or construed to apply to or affect any free and voluntary emigration of any Chinese subject, or to any vessel carrying such person as passenger on board the same: [but a consular certificate to be required in such case].

SEC. 5. [Provisions of acts of February 22, 1847, and March 3, 1849, relating to passengers in merchant vessels, to apply to such vessels carrying passengers between foreign ports.]

SEC. 6. *And be it further enacted,* That the President of the United States shall be, and he is hereby, authorized and empowered, in such way and at such time as he shall judge proper to the end that the provisions of this act may be enforced according to the true intent and meaning thereof, to direct and order the vessels of the United States, and the masters and commanders thereof, to examine all vessels navigated or owned in whole or in part by citizens of the United States, and registered, enrolled,

or licensed under the laws of the United States, wherever they may be, whenever, in the judgment of such master or commanding officer thereof, reasonable cause shall exist to believe that such vessel has on board, in violation of the provisions of this act, any subjects of China known as "coolies," for the purpose of transportation; and upon sufficient proof that such vessel is employed in violation of the provisions of this act, to cause such vessel to be carried, with her officers and crew, into any port or district within the United States, and delivered to the marshal of such district, to be held and disposed of according to the provisions of this act.

SEC. 7. *And be it further enacted*, That this act shall take effect from and after six months from the day of its passage.

APPROVED, February 19, 1862.

No. 14. Act authorizing the Issue of Legal Tender Notes

February 25, 1862

IN his annual report of December 9, 1861, Secretary Chase stated that loans to the amount of $200,000,000 would be required to meet the estimated expenditures for the fiscal year ending June 30, 1862. He proposed the establishment of a national banking system, but did not recommend the further issue of treasury notes. December 28 the New York banks suspended specie payment. By a joint resolution of January 21, 1862, Congress announced its intention of raising $150,000,000 by taxes and duties. January 22 Elbridge G. Spaulding of New York reported to the House, from the Committee of Ways and Means, a bill to authorize the issue of legal tender notes, etc., being a substitute for a bill for the issue of $100,000,000 demand notes, but without the legal tender provision, reported by Spaulding January 7. The bill encountered strong opposition both in and out of Congress, but on February 6 it passed the House, with various amendments, by a vote of 93 to 59. On the 13th the Senate, by a vote of 17 to 22, rejected an amendment striking out the legal tender clause, and passed the bill with amendments by a vote of 30 to 7. The House refusing to concur in the amendments of the Senate, the bill went to a conference committee, whose report was accepted on the 24th by the House by a vote of 98 to 22, and by the Senate without a division. The next day, however, on the motion of Fessenden, the action of

the Senate was reconsidered and a second conference asked for. The report of this committee was accepted by the houses, and on the 25th the act was approved. A further issue of legal tender notes, to the amount of $150,000,000, was authorized by an act of July 11, a third, to the amount of $100,000,000, by a joint resolution of January 17, 1863, and a fourth, of $150,000,000, March 3, 1863.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XII, 345–348. For the proceedings see the *House and Senate Journals*, 37th Cong., 2d Sess., and the *Cong. Globe*, where are also the texts of the numerous amendments offered. Morrill's substitute, embodying the recommendations of business men and bankers in consultation with Chase, and without the legal tender clause, is summarized in the *Globe* for February 4. On the constitutionality of the legal tender provision see *Hepburn v. Griswold*, 8 *Wallace*, 603; *Legal Tender Cases*, 12 *ibid.*, 457; *Juillard v. Greenman*, 110 *U.S. Reports*, 421. On the general subject see Hart, *Salmon P. Chase*, chaps. 9, 11; McCall, *Thaddeus Stevens*, chaps. 9, 10; Rhodes, *United States*, III, 558–572; Dewey, *Financial History*, chap. 12; E. J. James in *Publ. Amer. Econ. Assoc.*, Vol. III; Bancroft, *Plea for the Constitution;* John Sherman, *Recollections*, I, chap. 12; Blaine, *Twenty Years of Congress*, I, chap. 18.

An Act to authorize the Issue of United States Notes, and for the Redemption or Funding thereof, and for Funding the Floating Debt of the United States.

Be it enacted . . ., That the Secretary of the Treasury is hereby authorized to issue, on the credit of the United States, one hundred and fifty millions of dollars of United States notes, not bearing interest, payable to bearer, at the Treasury of the United States, and of such denominations as he may deem expedient, not less than five dollars each: *Provided, however*, That fifty millions of said notes shall be in lieu of the demand Treasury notes authorized to be issued by the act of July seventeen, eighteen hundred and sixty-one; which said demand notes shall be taken up as rapidly as practicable, and the notes herein provided for substituted for them: *And provided further*, That the amount of the two kinds of notes together shall at no time exceed the sum of one hundred and fifty millions of dollars, and such notes herein authorized shall be receivable in payment of all taxes, internal duties, excises, debts, and demands of every kind due to the United States, except duties on imports,

and of all claims and demands against the United States of every kind whatsoever, except for interest upon bonds and notes, which shall be paid in coin, and shall also be lawful money and a legal tender in payment of all debts, public and private, within the United States, except duties on imports and interest as aforesaid. And any holders of said United States notes depositing any sum not less than fifty dollars, or some multiple of fifty dollars, with the Treasurer of the United States, or either of the Assistant Treasurers, shall receive in exchange therefor duplicate certificates of deposit, one of which may be transmitted to the Secretary of the Treasury, who shall thereupon issue to the holder an equal amount of bonds of the United States, coupon or registered, as may by said holder be desired, bearing interest at the rate of six per centum per annum, payable semi-annually, and redeemable at the pleasure of the United States after five years, and payable twenty years from the date thereof. And such United States notes shall be received the same as coin, at their par value, in payment for any loans that may be hereafter sold or negotiated by the Secretary of the Treasury, and may be re-issued from time to time as the exigencies of the public interests shall require.

SEC. 2. *And be it further enacted*, That to enable the Secretary of the Treasury to fund the Treasury notes and floating debt of the United States, he is hereby authorized to issue, on the credit of the United States, coupon bonds, or registered bonds, to an amount not exceeding five hundred millions of dollars, redeemable at the pleasure of the United States after five years, and payable twenty years from date, and bearing interest at the rate of six per centum per annum, payable semi-annually. And the bonds herein authorized shall be of such denominations, not less than fifty dollars, as may be determined upon by the Secretary of the Treasury. And the Secretary of the Treasury may dispose of such bonds at any time, at the market value thereof, for the coin of the United States, or for any of the Treasury notes that have been or may hereafter be issued under any former act of Congress, or for United States

notes that may be issued under the provisions of this act; and all stocks, bonds, and other securities of the United States held by individuals, corporations, or associations, within the United States, shall be exempt from taxation by or under State authority.

SEC. 3. [Form of treasury notes and coupon or registered bonds; how signed, countersigned, and sealed. Provisions of act of December 23, 1857, revived. Appropriation of $300,000 to carry the act into effect.]

SEC. 4. *And be it further enacted*, That the Secretary of the Treasury may receive from any person or persons, or any corporation, United States notes on deposit for not less than thirty days, in sums of not less than one hundred dollars, with any of the Assistant Treasurers or designated depositaries of the United States authorized by the Secretary of the Treasury to receive them, who shall issue therefor certificates of deposit, made in such form as the Secretary of the Treasury shall prescribe, and said certificates of deposit shall bear interest at the rate of five per centum per annum; and any amount of United States notes so deposited may be withdrawn from deposit at any time after ten days' notice on the return of said certificates: *Provided*, That the interest on all such deposits shall cease and determine at the pleasure of the Secretary of the Treasury: *And provided further*, That the aggregate of such deposit shall at no time exceed the amount of twenty-five millions of dollars.

SEC. 5. *And be it further enacted*, That all duties on imported goods shall be paid in coin, or in notes payable on demand heretofore authorized to be issued and by law receivable in payment of public dues, and the coin so paid shall be set apart as a special fund, and shall be applied as follows:

First. To the payment in coin of the interest on the bonds and notes of the United States.

Second. To the purchase or payment of one per centum of the entire debt of the United States, to be made within each fiscal year after the first day of July, eighteen hundred and sixty-two, which is to be set apart as a sinking fund, and the

interest of which shall in like manner be applied to the purchase or payment of the public debt as the Secretary of the Treasury shall from time to time direct.

Third. The residue thereof to be paid into the Treasury of the United States.

[Sections 6 and 7 provide for the punishment of counterfeiting or altering treasury notes.]

Approved, February 25, 1862.

No. 15. Act for an Additional Article of War

March 13, 1862

July 9, 1861, the House of Representatives, by a vote of 92 to 55, resolved that "it is no part of the duty of the soldiers of the United States to capture and return fugitive slaves." December 23 the House Committee on Military Affairs was instructed to report a bill to make an additional article of war forbidding the use of the United States troops to return fugitives from service or labor. A bill to that effect was reported February 25, and passed, after much obstructive opposition, by a vote of 95 to 51. March 10, in the Senate, an amendment "that this article shall not apply in the States of Delaware, Maryland, Missouri, and Kentucky, nor elsewhere where the federal authority is recognized or can be enforced," was rejected, and the bill, by a vote of 29 to 9, passed.

References. — *Text* in *U.S. Statutes at Large*, XII, 354. For the debates see the *House and Senate Journals*, 37th Cong., 2d Sess., and the *Cong. Globe*. Various military orders and reports relating to the subject are collected in McPherson, *Rebellion*, 244 *seq.*

An Act to make an additional Article of War.

Be it enacted . . ., That hereafter the following shall be promulgated as an additional article of war for the government of the army of the United States, and shall be obeyed and observed as such:

Article —. All officers or persons in the military or naval service of the United States are prohibited from employing any of the forces under their respective commands for the purpose of returning fugitives from service or labor, who may have escaped

from any persons to whom such service or labor is claimed to be due, and any officer who shall be found guilty by a court-martial of violating this article shall be dismissed from the service.

Sec. 2. *And be it further enacted*, That this act shall take effect from and after its passage.

Approved, March 13, 1862.

No. 16. Act authorizing further Purchase of Coin

March 17, 1862

The immediate occasion for so much of the act of March 17 as relates to the purchase of coin was the inability of the treasury to obtain, under existing laws, enough coin to pay the interest on the public debt. The bill, in substance as suggested by the Treasury Department, was introduced in the House, March 6, by Thaddeus Stevens, from the Committee of Ways and Means, and passed the next day. The Senate added the provisions contained in section three of the act, the bill receiving its final form from a conference committee.

References. — *Text* in *U.S. Statutes at Large*, XII, 370. For the proceedings see the *House and Senate Journals*, 37th Cong., 2d Sess., and the *Cong. Globe*.

An Act to authorize the Purchase of Coin, and for other Purposes.

Be it enacted . . ., That the Secretary of the Treasury may purchase coin with any of the bonds or notes of the United States, authorized by law, at such rates and upon such terms as he may deem most advantageous to the public interest; and may issue, under such rules and regulations as he may prescribe, certificates of indebtedness, such as are authorized by an act entitled "An act to authorize the Secretary of the Treasury to issue certificates of indebtedness to public creditors," approved March first, eighteen hundred and sixty-two,[1] to such

[1] The act provided that 'the Secretary of the Treasury be, and he is hereby authorized, to cause to be issued to any public creditor who may be desirous to receive the same, upon requisition of the Head of the proper Department in satis-

creditors as may desire to receive the same, in discharge of checks drawn by disbursing officers upon sums placed to their credit on the books of the Treasurer, upon requisitions of the proper departments, as well as in discharge of audited and settled accounts, as provided by said act.

SEC. 2. *And be it further enacted*, That the demand notes authorized by the act of July seventeenth, eighteen hundred and sixty-one, and by the act of February twelfth, eighteen hundred and sixty-two, shall, in addition to being receivable in payment of duties on imports, be receivable, and shall be lawful money and a legal tender, in like manner, and for the same purposes, and to the same extent, as the notes authorized by an act entitled "An act to authorize the issue of United States notes, and for the redemption or funding thereof, and for funding the floating debt of the United States," approved February twenty-fifth, eighteen hundred and sixty-two.

SEC. 3. *And be it further enacted*, That the limitation upon temporary deposits of United States notes with any assistant treasurers or designated depositaries, authorized by the Secretary of the Treasury to receive such deposits, at five per cent. interest, to twenty-five millions of dollars, shall be so far modified as to authorize the Secretary of the Treasury to receive such deposits to an amount not exceeding fifty millions of dollars, and that the rates of interest shall be prescribed by the Secretary of the Treasury not exceeding the annual rate of five per centum.

SEC. 4. [The Secretary of the Treasury in reissuing notes may replace mutilated ones.]

APPROVED, March 17, 1862.

faction of audited and settled demands against the United States, certificates for the whole amount due or parts thereof not less than one thousand dollars, signed by the Treasurer of the United States, and countersigned as may be directed by the Secretary of the Treasury; which certificate shall be payable in one year from date or earlier, at the option of the Government, and shall bear interest at the rate of six per centum per annum."

No. 17. Joint Resolution on Compensated Emancipation

April 10, 1862

THE first proposition for compensated emancipation seems to have been brought forward by James B. McKean of New York, who introduced in the House, February 11, 1861, a resolution for the appointment of a select committee to inquire into the practicability of emancipating the slaves in the border States. No action was taken on the resolution. In a special message to Congress, March 6, 1862, Lincoln recommended the adoption of a resolution in the identical terms of the resolution following. The resolution was introduced in the House, March 10, by Roscoe Conkling of New York, under suspension of the rules, and the next day passed by a vote of 97 to 36. The Senate passed the resolution April 2, the vote being 32 to 10. April 7, by a vote of 67 to 52, the House adopted a resolution, submitted by Albert S. White of Indiana, for the appointment of a select committee of nine on compensated emancipation in the border States. On March 10, and again on July 12, Lincoln had interviews with representatives of the border States, but the conferences were fruitless. In his proclamation of May 19, setting aside General Hunter's proclamation declaring free the slaves in Georgia, Florida, and South Carolina, Lincoln made an earnest plea for the acceptance of the offer proposed by the resolution, while in his annual message of December 1, 1862, he discussed the subject at length, and proposed an amendment to the Constitution to carry the plan into effect. Bills providing for compensated emancipation in Missouri and Maryland were introduced in the House in January, 1863, but failed to pass.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XII, 617. For the proceedings see the *House and Senate Journals*, 37th Cong., 1st Sess., and the *Cong. Globe*. Papers relating to Lincoln's interviews with representatives of the border States are in McPherson, *Rebellion*, 213–220. See also *Senate Report 12* and *House Report 148*, 37th Cong., 2d Sess.; *House Report 33*, 39th Cong., 1st Sess.; Rhodes, *United States*, III, 630–636; Nicolay and Hay, *Lincoln*, V, chap. 12.

Joint Resolution declaring that the United States ought to coöperate with, affording pecuniary Aid to any State which may adopt the gradual Abolishment of Slavery.

Be it resolved . . ., That the United States ought to coöperate with any State which may adopt gradual abolishment of

slavery, giving to such State pecuniary aid, to be used by such State in its discretion, to compensate for the inconveniences, public and private, produced by such change of system.

APPROVED, April 10, 1862.

No. 18. Act abolishing Slavery in the District of Columbia

April 16, 1862

A BILL "for the release of certain persons held to service or labor in the District of Columbia" was introduced in the Senate, December 16, 1861, by Henry Wilson of Massachusetts. The debate on the bill began March 12 and developed much opposition, but April 3, by a vote of 29 to 14, the bill passed. In the House a motion to reject the bill was lost, 45 to 93, and on the 11th the bill passed, the final vote being 85 to 40. In his message of approval Lincoln suggested that further time be allowed for the presentation of claims, and that provision be made for "minors, *femmes covert*, insane, or absent persons"; and a supplementary act was passed July 12 embodying these changes. The civil appropriation act of July 16 made an appropriation of $500,000 for the removal and colonization of the emancipated negroes, but this, as to the unexpended balance, together with section eleven of the act of April 16, was repealed by the civil appropriation act of July 2, 1864. Acts of May 20 and 21 provided for the education of colored children in the District.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XII, 376–378. For the proceedings see the *House and Senate Journals*, 37th Cong., 2d Sess., and the *Cong. Globe*. Calvert's minority report, March 12, is *House Report 58*. For a report of the commissioners see *House Exec. Doc. 42*, 38th Cong., 1st Sess.

An Act for the Release of certain Persons held to Service or Labor in the District of Columbia.

Be it enacted . . ., That all persons held to service or labor within the District of Columbia by reason of African descent are hereby discharged and freed of and from all claim to such service or labor; and from and after the passage of this act neither slavery nor involuntary servitude, except for crime, whereof the party shall be duly convicted, shall hereafter exist in said District.

SEC. 2. *And be it further enacted*, That all persons loyal to the

United States, holding claims to service or labor against persons discharged therefrom by this act, may, within ninety days from the passage thereof, but not thereafter, present to the commissioners hereinafter mentioned their respective statements or petitions in writing, verified by oath or affirmation, setting forth the names, ages, and personal description of such persons, the manner in which said petitioners acquired such claim, and any facts touching the value thereof, and declaring his allegiance to the Government of the United States, and that he has not borne arms against the United States during the present rebellion, nor in any way given aid or comfort thereto: *Provided*, That the oath of the party to the petition shall not be evidence of the facts therein stated.

SEC. 3. *And be it further enacted*, That the President of the United States, with the advice and consent of the Senate, shall appoint three commissioners, residents of the District of Columbia, any two of whom shall have power to act, who shall receive the petitions above mentioned, and who shall investigate and determine the validity and value of the claims therein presented, as aforesaid, and appraise and apportion, under the proviso hereto annexed, the value in money of the several claims by them found to be valid: *Provided, however*, That the entire sum so appraised and apportioned shall not exceed in the aggregate an amount equal to three hundred dollars for each person shown to have been so held by lawful claim: *And provided, further*, That no claim shall be allowed for any slave or slaves brought into said District after the passage of this act, nor for any slave claimed by any person who has borne arms against the Government of the United States in the present rebellion, or in any way given aid or comfort thereto, or which originates in or by virtue of any transfer heretofore made, or which shall hereafter be made by any person who has in any manner aided or sustained the rebellion against the Government of the United States.

SEC. 4. *And be it further enacted*, That said commissioners shall, within nine months from the passage of this act, make a full and final report of their proceedings, findings, and appraisement, and shall deliver the same to the Secretary of the Treasury, which report

shall be deemed and taken to be conclusive in all respects, except as hereinafter provided; and the Secretary of the Treasury shall, with like exception, cause the amounts so apportioned to said claims to be paid from the Treasury of the United States to the parties found by said report to be entitled thereto as aforesaid, and the same shall be received in full and complete compensation: *Provided*, That in cases where petitions may be filed presenting conflicting claims, or setting up liens, said commissioners shall so specify in said report, and payment shall not be made according to the award of said commissioners until a period of sixty days shall have elapsed, during which time any petitioner claiming an interest in the particular amount may file a bill in equity in the Circuit Court of the District of Columbia, making all other claimants defendants thereto, setting forth the proceedings in such case before said commissioners and their action therein, and praying that the party to whom payment has been awarded may be enjoined from receiving the same; and if said court shall grant such provisional order, a copy thereof may, on motion of said complainant, be served upon the Secretary of the Treasury, who shall thereupon cause the said amount of money to be paid into said court, subject to its orders and final decree, which payment shall be in full and complete compensation, as in other cases.

Sec. 5. *And be it further enacted*, That said commissioners shall hold their sessions in the city of Washington, at such place and times as the President of the United States may direct, of which they shall give due and public notice. They shall have power to subpœna and compel the attendance of witnesses, and to receive testimony and enforce its production, as in civil cases before courts of justice, without the exclusion of any witness on account of color; and they may summon before them the persons making claim to service or labor, and examine them under oath; and they may also, for purposes of identification and appraisement, call before them the persons so claimed. . . . [Commissioners to appoint a clerk. The Marshal of the District of Columbia to attend and execute process.]

Sec. 6. [Compensation of commissioners, expenses, etc.]

SEC. 7. [Appropriation of $1,000,000 to carry the act into effect.]

SEC. 8. *And be it further enacted*, That any person or persons who shall kidnap, or in any manner transport or procure to be taken out of said District, any person or persons discharged and freed by the provisions of this act, or any free person or persons with intent to re-enslave or sell such person or persons into slavery, or shall re-enslave any of said freed persons, the person or persons so offending shall be deemed guilty of a felony, and on conviction thereof in any court of competent jurisdiction in said District, shall be imprisoned in the penitentiary not less than five nor more than twenty years.

SEC. 9. *And be it further enacted*, That within twenty days, or within such further time as the commissioners herein provided for shall limit, after the passage of this act, a statement in writing or schedule shall be filed with the clerk of the Circuit Court for the District of Columbia, by the several owners or claimants to the services of the persons made free or manumitted by this act, setting forth the names, ages, sex, and particular description of such persons, severally; and the said clerk shall receive and record, in a book by him to be provided and kept for that purpose, the said statements or schedules on receiving fifty cents each therefor, and no claim shall be allowed to any claimant or owner who shall neglect this requirement.

SEC. 10. *And be it further enacted*, That the said clerk and his successors in office shall, from time to time, on demand, and on receiving twenty-five cents therefor, prepare, sign, and deliver to each person made free or manumitted by this act, a certificate under the seal of said court, setting out the name, age, and description of such person, and stating that such person was duly manumitted and set free by this act.

SEC. 11. *And be it further enacted*, That the sum of one hundred thousand dollars, out of any money in the Treasury not otherwise appropriated, is hereby appropriated, to be expended under the direction of the President of the United States, to aid in the colonization and settlement of such free persons of African descent

now residing in said District, including those to be liberated by this act, as may desire to emigrate to the Republics of Hayti or Liberia, or such other country beyond the limits of the United States as the President may determine: *Provided*, The expenditure for this purpose shall not exceed one hundred dollars for each emigrant.

SEC. 12. *And be it further enacted*, That all acts of Congress and all laws of the State of Maryland in force in said District, and all ordinances of the cities of Washington and Georgetown, inconsistent with the provisions of this act, are hereby repealed.

APPROVED, April 16, 1862.

No. 19. Collection of Direct Taxes in Insurrectionary States

June 7, 1862

A BILL for the collection of direct taxes in insurrectionary States was introduced in the Senate, April 29, 1862, by James R. Doolittle of Wisconsin, and passed with amendments, May 12, by a vote of 32 to 3. The House added numerous amendments, mainly verbal, and passed the bill May 28, by a vote of 98 to 17. June 2 the Senate agreed, with an amendment, to the bill as passed by the House. The House concurred in the action of the Senate, and on the 7th the act was approved. A proclamation under section two of the act was issued July 1.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XII, 422–426. For the proceedings see the *House and Senate Journals*, 37th Cong., 2d Sess., and the *Cong. Globe*. On the collection of direct taxes in the South see *House Exec. Doc. 133*, 39th Cong., 1st Sess.; *House Report 908*, 45th Cong., 2d Sess.; *House Report 168*, 46th Cong., 2d Sess.; acts of May 9 and June 8, 1872.

An Act for the Collection of direct Taxes in Insurrectionary Districts within the United States, and for other Purposes.

Be it enacted . . ., That when in any State or Territory, or in any portion of any State or Territory, by reason of insurrection or rebellion, the civil authority of the Government of the United States is obstructed so that the provisions of the act entitled "An

Act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes," approved August fifth, eighteen hundred and sixty-one, for assessing, levying, and collecting the direct taxes therein mentioned, cannot be peaceably executed, the said direct taxes, by said act apportioned among the several States and Territories, respectively, shall be apportioned and charged in each State and Territory, or part thereof, wherein the civil authority is thus obstructed, upon all the lands and lots of ground situate therein, respectively, except such as are exempt from taxation by the laws of said State or of the United States, as the said lands or lots of ground were enumerated and valued under the last assessment and valuation thereof made under the authority of said State or Territory previous to the first day of January, anno Domini eighteen hundred and sixty-one; and each and every parcel of the said lands, according to said valuation, is hereby declared to be, by virtue of this act, charged with the payment of so much of the whole tax laid and apportioned by said act upon the State or Territory wherein the same is respectively situate, as shall bear the same direct proportion to the whole amount of the direct tax apportioned to said State or Territory as the value of said parcels of land shall respectively bear to the whole valuation of the real estate in said State or Territory according to the said assessment and valuation made under the authority of the same; and in addition thereto a penalty of fifty per centum of said tax shall be charged thereon.

SEC. 2. *And be it further enacted*, That on or before the first day of July next, the President, by his proclamation, shall declare in what States and parts of States said insurrection exists, and thereupon the said several lots or parcels of land shall become charged respectively with their respective portions of said direct tax, and the same together with the penalty shall be a lien thereon, without any other or further proceeding whatever.

SEC. 3. *And be it further enacted*, That it shall be lawful for the owner or owners of said lots or parcels of lands, within sixty days after the tax commissioners herein named shall have fixed the amount, to pay the tax thus charged upon the same, respectively,

into the treasury of the United States, or to the commissioners herein appointed, and take a certificate thereof, by virtue whereof the said lands shall be discharged from said tax.

SEC. 4. *And be it further enacted*, That the title of, in, and to each and every piece or parcel of land upon which said tax has not been paid as above provided, shall thereupon become forfeited to the United States, and, upon the sale hereinafter provided for, shall vest in the United States or in the purchasers at such sale, in fee simple, free and discharged from all prior liens, incumbrances, right, title, and claim whatsoever.

[Sections 5–8 provide for the appointment of tax commissioners for each State, the sale of land for taxes, etc.[1]]

SEC. 9. *And be it further enacted*, That in cases where the owners of said lots and parcels of ground have abandoned the same, and have not paid the tax thereon as provided for in the third section of this act, nor paid the same, nor redeemed the said land from sale as provided for in the seventh section of this act, and the said board of commissioners shall be satisfied that said owners have left the same to join the rebel forces or otherwise to engage in and abet this rebellion, and the same shall have been struck off to the United States at said sale, the said commissioners shall, in the name of the United States, enter upon and take possession of the same, and may lease the same, together or in parcels, to any person or persons who are citizens of the United States, or may have declared on oath their intention to become such, until the said rebellion and insurrection in said State shall be put down, and the civil authority of the United States established, and until the people of said State shall elect a Legislature and State officers, who shall take an oath to support the Constitution of the United States, to be announced by the proclamation of the President, and until the first day of March next thereafter, said leases to be in such form and with such security as shall, in the judgment of said Commissioners, produce to the United States the greatest revenue.

[1] Section 7, relating to sales, was amended by acts of February 6, 1863, and March 3, 1865.

SEC. 10. *And be it further enacted*, That the said commissioners shall from time to time make such temporary rules and regulations, and insert such clauses in said leases as shall be just and proper to secure proper and reasonable employment and support, at wages or upon shares of the crop, of such persons and families as may be residing upon the said parcels or lots of land, which said rules and regulations are declared to be subject to the approval of the President.

SEC. 11. [Commissioners may sell instead of leasing.]

SEC. 12. *And be it further enacted*, That the proceeds of said leases and sales shall be paid into the Treasury of the United States, one fourth of which shall be paid over to the Governor of said State wherein said lands are situated, or his authorized agent, when such insurrection shall be put down, and the people shall elect a Legislature and State officers who shall take an oath to support the Constitution of the United States, and such fact shall be proclaimed by the President for the purpose of reimbursing the loyal citizens of said State, or such other purpose as said State may direct; and one fourth shall also be paid over to said State as a fund to aid in the colonization or emigration from said State of any free person of African descent who may desire to remove therefrom to Hayti, Liberia, or any other tropical state or colony.

[Sections 13–15 contain minor administrative provisions.]

SEC. 16. *And be it further enacted*, That this act shall take effect from and after its passage.

APPROVED, June 7, 1862.

No. 20. Abolition of Slavery in the Territories

June 19, 1862

MARCH 24, 1862, Isaac N. Arnold of Illinois introduced in the House a bill "to render freedom national and slavery sectional." Another bill with a similar title was introduced May 1 by Owen Lovejoy of Illinois. The latter bill, with amended title, was reported May 8 as a substitute for the Arnold bill, and

on the 12th passed the House by a vote of 85 to 50. The Senate, June 9, amended the House bill by substituting the text of the act as passed, the vote being 28 to 10. On the 17th the House concurred in the Senate amendment, and on the 19th the act was approved. The prohibition of the act was incorporated in the later acts organizing the Territories of Arizona and Idaho.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XII, 432. For the proceedings see the *House and Senate Journals*, 37th Cong., 2d Sess., and the *Cong. Globe*..

An Act to secure Freedom to all Persons within the Territories of the United States.

Be it enacted . . ., That from and after the passage of this act there shall be neither slavery nor involuntary servitude in any of the Territories of the United States now existing, or which may at any time hereafter be formed or acquired by the United States, otherwise than in punishment of crimes whereof the party shall have been duly convicted.

APPROVED, June 19, 1862.

No. 21. Anti-Polygamy Act

July 1, 1862

A BILL to prevent and punish polygamy in the Territories, and annulling certain acts of the legislative assembly of Utah, was introduced in the House by unanimous consent, April 8, 1862, by Morrill of Vermont. The bill was said to be identical with a bill relating to the same subject which had passed the House April 5, 1860, save that the earlier bill did not include the District of Columbia. The bill passed the House April 28. The Senate Committee on Judiciary, alleging that the bill went farther than the punishment of polygamy, reported a substitute, which was agreed to June 3 by a vote of 37 to 2. On the 24th the House concurred in the Senate amendment, and July 1 the act was approved.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XII, 501, 502. For the proceedings see the *House and Senate Journals*, 37th Cong., 2d Sess., and the *Cong. Globe*. There was no important debate in the House. On the bill of April 5, 1860, see *House Report 83*, 36th Cong., 1st Sess.; see also *House Report* 27, 39th Cong., 2d Sess. On this and later acts see Linn, *Story of the Mormons*, chap. 24. On the scope of the act see *Reynolds* v. *United States*, 98 *U.S. Reports*, 145; *Miles* v. *United States*, 103 *ibid.*, 304.

An Act to punish and prevent the Practice of Polygamy in the Territories of the United States and other Places, and disapproving and annulling certain Acts of the Legislative Assembly of the Territory of Utah.

Be it enacted . . ., That every person having a husband or wife living, who shall marry any other person, whether married or single, in a Territory of the United States, or other place over which the United States have exclusive jurisdiction, shall, except in the cases specified in the proviso to this section, be adjudged guilty of bigamy, and, upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars, and by imprisonment for a term not exceeding five years: [certain cases excepted].

SEC. 2. *And be it further enacted*, That the following ordinance of the provisional government of the State of Deseret, so called, namely: "An ordinance incorporating the Church of Jesus Christ of Latter Day Saints," passed February eight, in the year eighteen hundred and fifty-one, and adopted, reënacted, and made valid by the governor and legislative assembly of the Territory of Utah by an act passed January nineteen, in the year eighteen hundred and fifty-five, entitled "An act in relation to the compilation and revision of the laws and resolutions in force in Utah Territory, their publication, and distribution," and all other acts and parts of acts heretofore passed by the said legislative assembly of the Territory of Utah, which establish, support, maintain, shield, or countenance polygamy, be, and the same hereby are, disapproved and annulled: *Provided*, That this act shall be so limited and construed as not to affect or interfere with the right of property legally acquired under the ordinance heretofore mentioned, nor with the right "to worship God according to the dictates of conscience," but only to annul all acts and laws which establish, maintain, protect, or countenance the practice of polygamy, evasively called spiritual marriage, however disguised by legal or ecclesiastical solemnities, sacraments, ceremonies, consecrations, or other contrivances.

SEC. 3. *And be it further enacted*, That it shall not be lawful for

any corporation or association for religious or charitable purposes to acquire or hold real estate in any Territory of the United States during the existence of the territorial government of a greater value than fifty thousand dollars; and all real estate acquired or held by any such corporation or association contrary to the provisions of this act shall be forfeited and escheat to the United States: *Provided*, That existing vested rights in real estate shall not be impaired by the provisions of this section.

Approved, July 1, 1862.

No. 22. Oath of Office

July 2, 1862

By an act of August 6, 1861, all members of the civil departments of the government were required to take an oath of allegiance to the United States "against all enemies, domestic or foreign, . . . any ordinance, resolution, or law of any State convention or legislature to the contrary notwithstanding." An act of May 20, 1862, required voters in Washington and Georgetown, if challenged for disloyalty, to take a similar oath, with the addition of a clause declaring that the subscriber had "always been loyal and true to the Government of the United States." An act of June 17 imposed upon grand and petit jurors in United States courts an oath declaring "that you have not, without duress and constraint, taken up arms, or joined any insurrection or rebellion against the United States; that you have not adhered to any insurrection or rebellion, giving it aid and comfort; that you have not, directly or indirectly, given any assistance in money, or any other thing, to any person or persons whom you knew, or had good ground to believe, had joined, or was about to join, said insurrection and rebellion, or had resisted, or was about to resist, with force of arms, the execution of the laws of the United States; and that you have not counselled or advised any person or persons to join any rebellion against, or to resist with force of arms, the laws of the United States." The so-called "iron-clad" oath of July 2 had its origin in a bill introduced in the House, March 24, by James F. Wilson of Iowa, "declaring certain persons ineligible to office." June 4 a substitute reported by the Committee on Judiciary, being a modified form of an amendment previously offered by Horace Maynard of Tennessee to a bill to free the slaves of rebels, was agreed to, and the bill passed, the vote being 78 to 47. The Senate, on motion of Garrett Davis of Kentucky, added an amendment excepting the Vice-Presi-

dent and Senators and Representatives, the amended bill passing the Senate on the 23d by a vote of 33 to 5. The House disagreeing, the Senate receded from so much of its amendment as excepted Senators and Representatives, and in this form the bill passed. The acts of June 17 and July 2 were repealed by an act of May 13, 1884.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XII, 502, 503. For the proceedings see the *House and Senate Journals*, 37th Cong., 2d Sess., and the *Cong. Globe*. On the loyalty of government employees see *House Report 16*, 37th Cong., 2d Sess. On the modification of the oath see *House Exec. Doc. 81*, 39th Cong., 1st Sess., *House Report 51*, *ibid.*, *Senate Exec. Doc. 38*, *ibid.*, and No. 71, *post*. See also Cox, *Three Decades*, chap. 34.

An Act to prescribe an Oath of Office, and for other Purposes.

Be it enacted . . ., That hereafter every person elected or appointed to any office of honor or profit under the government of the United States, either in the civil, military or naval departments of the public service, excepting the President of the United States, shall, before entering upon the duties of such office, and before being entitled to any of the salary or other emoluments thereof, take and subscribe the following oath or affirmation: "I, A. B., do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted nor attempted to exercise the functions of any office whatever, under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter, so help me God;" which said oath, so taken and signed,

shall be preserved among the files of the court, House of Congress, or Department to which the said office may appertain. And any person who shall falsely take the said oath shall be guilty of perjury, and on conviction, in addition to the penalties now prescribed for that offence, shall be deprived of his office and rendered incapable forever after of holding any office or place under the United States.

Approved, July 2, 1862.

No. 23. Election of Representatives by Districts

July 14, 1862

A bill to provide for the election of Representatives to Congress by single districts was introduced in the House, June 16, 1862, by Henry L. Dawes of Massachusetts, with the object, it was stated, of making permanent the provisions of a temporary act of 1842. On the 24th, by a vote of 59 to 46, an amendment excepting California was agreed to, the legislature of California having adjourned without districting the State ; and by a vote of 69 to 36 the bill was passed. The Senate, July 12, added as an amendment the proviso relating to Illinois, in which the House concurred.

References. — *Text* in *U.S. Statutes at Large*, XII, 572. For the proceedings see the *House and Senate Journals*, 37th Cong., 2d Sess., and the *Cong. Globe*.

An Act in relation to the Election of Representatives to Congress by single Districts.

Be it enacted . . ., That in each State entitled in the next and any succeeding Congress to more than one representative, the number to which such State is or may be hereafter entitled shall be elected by districts composed of contiguous territory, equal in number to the number of representatives to which said State may be entitled in the Congress for which said election is held, no one district electing more than one representative : *Provided*, That the provisions of this act shall not apply to the State of California so far as it may affect the election of representatives to the thirty-eighth Congress : *And provided, further*, That in the election of repre-

sentatives to the thirty-eighth Congress from the State of Illinois, the additional representative allowed to said State by an act entitled "An act fixing the number of the House of Representatives from and after the third day of March, eighteen hundred and sixty-three," approved March fourth, eighteen hundred and sixty-two, may be elected by the State at large, and the other thirteen representatives to which the State is entitled by the districts as now prescribed by law in said State, unless the legislature of said State should otherwise provide before the time fixed by law for the election of representatives therein.

Approved, July 14, 1862.

No. 24. Confiscation Act

July 17, 1862

A bill "to confiscate the property of rebels for the payment of the expenses of the present rebellion" was reported in the House, May 14, 1862, by Thomas D. Eliot of Massachusetts, from the select committee on the confiscation of rebel property, together with a bill to free the slaves of rebels. On the 26th a substitute for the two bills, offered by Morrill of Vermont on the 20th, was rejected by a vote of 25 to 122, and the bill passed, the vote being 82 to 68. The House bill was more stringent than the act finally passed, but a substitute agreed to by the Senate, June 28, by a vote of 28 to 13, was thought by the House too lenient, and by a vote of 8 to 123 the amendment of the Senate was disagreed to. The report of the conference committee, being the Senate substitute with amendments, was agreed to by the House, July 11, by a vote of 82 to 42, and by the Senate, July 12, by a vote of 28 to 13. President Lincoln had intended to veto the bill on the ground that under it offenders would be forever divested of title to their real estate, and punishment would thus be made to extend beyond the life of the guilty party. To obviate this objection, a joint resolution explanatory of the act was hurried through both houses July 17. Lincoln, in communicating to Congress his approval of the act and the resolution, transmitted also the veto message which he had already prepared. A proclamation under section 6 of the act was issued the same day that the act was approved, and December 8, 1863, a proclamation of amnesty [No. 35] under section 13. The latter section was repealed, with the purpose of restricting the pardoning power of the President, July 17, 1867.

References. — *Text* in *U.S. Statutes at Large*, XII, 589–592. For the

proceedings see the *House and Senate Journals*, 37th Cong., 2d Sess., and the *Cong. Globe*. The texts of all amendments and substitutes are in the *Globe*. The debates called out numerous formal speeches. On the seizure of lands under the act see a report by O. O. Howard, *House Exec. Doc. 19*, 39th Cong., 1st Sess.; see also *Senate Exec. Doc. 58*, 40th Cong., 2d Sess. On the general subject see Pierce, *Sumner*, IV, chap. 45; Blaine, *Twenty Years of Congress*, I, 373–377; Cox, *Three Decades*, chap. 12; Dunning, *Essays*, 28–37.

An Act to suppress Insurrection, to punish Treason and Rebellion, to seize and confiscate the Property of Rebels, and for other Purposes.

Be it enacted . . ., That every person who shall hereafter commit the crime of treason against the United States, and shall be adjudged guilty thereof, shall suffer death, and all his slaves, if any, shall be declared and made free; or, at the discretion of the court, he shall be imprisoned for not less than five years and fined not less than ten thousand dollars, and all his slaves, if any, shall be declared and made free; said fine shall be levied and collected on any or all of the property, real and personal, excluding slaves, of which the said person so convicted was the owner at the time of committing the said crime, any sale or conveyance to the contrary notwithstanding.

Sec. 2. *And be it further enacted*, That if any person shall hereafter incite, set on foot, assist, or engage in any rebellion or insurrection against the authority of the United States, or the laws thereof, or shall give aid or comfort thereto, or shall engage in, or give aid and comfort to, any such existing rebellion or insurrection, and be convicted thereof, such person shall be punished by imprisonment for a period not exceeding ten years, or by a fine not exceeding ten thousand dollars, and by the liberation of all his slaves, if any he have; or by both of said punishments, at the discretion of the court.

Sec. 3. *And be it further enacted*, That every person guilty of either of the offences described in this act shall be forever incapable and disqualified to hold any office under the United States.

Sec. 4. *And be it further enacted*, That this act shall not be construed in any way to affect or alter the prosecution, conviction,

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or punishment of any person or persons guilty of treason against the United States before the passage of this act, unless such person is convicted under this act.

SEC. 5. *And be it further enacted*, That, to insure the speedy termination of the present rebellion, it shall be the duty of the President of the United States to cause the seizure of all the estate and property, money, stocks, credits, and effects of the persons hereinafter named in this section, and to apply and use the same and the proceeds thereof for the support of the army of the United States, that is to say:

First. Of any person hereafter acting as an officer of the army or navy of the rebels in arms against the government of the United States.

Secondly. Of any person hereafter acting as President, Vice-President, member of Congress, judge of any court, cabinet officer, foreign minister, commissioner or consul of the so-called confederate states of America.

Thirdly. Of any person acting as governor of a state, member of a convention or legislature, or judge of any court of any of the so-called confederate states of America.[1]

Fourthly. Of any person who, having held an office of honor, trust, or profit in the United States, shall hereafter hold an office in the so-called confederate states of America.

Fifthly. Of any person hereafter holding any office or agency under the government of the so-called confederate states of America, or under any of the several states of the said confederacy, or the laws thereof, whether such office or agency be national, state, or municipal in its name or character: *Provided*, That the persons, thirdly, fourthly, and fifthly above described shall have accepted

[1] By a joint resolution of July 17 it was provided "that the provisions of the third clause of the fifth section of 'An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes,' shall be so construed as not to apply to any act or acts done prior to the passage thereof; nor to include any member of a State legislature, or judge of any State court, who has not in accepting or entering upon his office, taken an oath to support the constitution of the so-called 'Confederate States of America'; nor shall any punishment or proceedings under said act be so construed as to work a forfeiture of the real estate of the offender beyond his natural life."

their appointment or election since the date of the pretended ordinance of cesession of the state, or shall have taken an oath of allegiance to, or to support the constitution of the so-called confederate states.

Sixthly. Of any person who, owning property in any loyal State or Territory of the United States, or in the District of Columbia, shall hereafter assist and give aid and comfort to such rebellion; and all sales, transfers, or conveyances of any such property shall be null and void; and it shall be a sufficient bar to any suit brought by such person for the possession or the use of such property, or any of it, to allege and prove that he is one of the persons described in this section.

SEC. 6. *And be it further enacted*, That if any person within any State or Territory of the United States, other than those named as aforesaid, after the passage of this act, being engaged in armed rebellion against the government of the United States, or aiding or abetting such rebellion, shall not, within sixty days after public warning and proclamation duly given and made by the President of the United States, cease to aid, countenance, and abet such rebellion, and return to his allegiance to the United States, all the estate and property, moneys, stocks, and credits of such person shall be liable to seizure as aforesaid, and it shall be the duty of the President to seize and use them as aforesaid or the proceeds thereof. And all sales, transfers, or conveyances, of any such property after the expiration of the said sixty days from the date of such warning and proclamation shall be null and void; and it shall be a sufficient bar to any suit brought by such person for the possession or the use of such property, or any of it, to allege and prove that he is one of the persons described in this section.

SEC. 7. [Proceedings to secure condemnation, &c., of such property.]

SEC. 8. [Powers of courts in such cases.]

SEC. 9. *And be it further enacted*, That all slaves of persons who shall hereafter be engaged in rebellion against the government of the United States, or who shall in any way give aid or comfort thereto, escaping from such persons and taking refuge

within the lines of the army; and all slaves captured from such persons or deserted by them and coming under the control of the government of the United States; and all slaves of such persons found *on* [or] being within any place occupied by rebel forces and afterwards occupied by the forces of the United States, shall be deemed captives of war, and shall be forever free of their servitude, and not again held as slaves.

SEC. 10. *And be it further enacted*, That no slave escaping into any State, Territory, or the District of Columbia, from any other State, shall be delivered up, or in any way impeded or hindered of his liberty, except for crime, or some offence against the laws, unless the person claiming said fugitive shall first make oath that the person to whom the labor or service of such fugitive is alleged to be due is his lawful owner, and has not borne arms against the United States in the present rebellion, nor in any way given aid and comfort thereto; and no person engaged in the military or naval service of the United States shall, under any pretence whatever, assume to decide on the validity of the claim of any person to the service or labor of any other person, or surrender up any such person to the claimant, on pain of being dismissed from the service.

SEC. 11. *And be it further enacted*, That the President of the United States is authorized to employ as many persons of African descent as he may deem necessary and proper for the suppression of this rebellion, and for this purpose he may organize and use them in such manner as he may judge best for the public welfare.

SEC. 12. *And be it further enacted*, That the President of the United States is hereby authorized to make provision for the transportation, colonization, and settlement, in some tropical country beyond the limits of the United States, of such persons of the African race, made free by the provisions of this act, as may be willing to emigrate, having first obtained the consent of the government of said country to their protection and settlement within the same, with all the rights and privileges of freemen.

SEC. 13. *And be it further enacted*, That the President is hereby authorized, at any time hereafter, by proclamation, to extend to

persons who may have participated in the existing rebellion in any State or part thereof, pardon and amnesty, with such exceptions and at such time and on such conditions as he may deem expedient for the public welfare.

SEC. 14. *And be it further enacted*, That the courts of the United States shall have full power to institute proceedings, make orders and decrees, issue process, and do all other things necessary to carry this act into effect.

APPROVED, July 17, 1862.

No. 25. Act to authorize Payments in Stamps

July 17, 1862

IN a letter of July 14, 1862, to Thaddeus Stevens, Secretary Chase stated that the depreciation of the currency had led to the issue of coins, checks, and tokens, of denominations less than one dollar, by hotels and business houses. A draft of a bill to prohibit such issues and allow the use of stamps as currency was submitted. A bill to carry the recommendation into effect was introduced in the House, July 17, by Samuel Hooper of Massachusetts, and passed by a vote of 62 to 40. The Senate passed the bill the same day without a division.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XII, 592. For the proceedings see the *House and Senate Journals*, 37th Cong., 2d Sess., and the *Cong. Globe*. The Senate proceedings were unimportant.

An Act to authorize Payments in Stamps, and to prohibit Circulation of Notes of less Denomination than One Dollar.

Be it enacted . . ., That the Secretary of the Treasury be, and he is hereby directed to furnish to the Assistant Treasurers, and such designated depositaries of the United States as may be by him selected, in such sums as he may deem expedient, the postage and other stamps of the United States, to be exchanged by them, on application, for United States notes; and from and after the first day of August next such stamps shall be receivable in payment of all dues to the United States less than five dollars, and shall be received in exchange for United States notes when presented to any Assistant Treasurer or any desig-

nated depositary selected as aforesaid in sums not less than five dollars.

Sec. 2. *And be it further enacted*, That from and after the first day of August, eighteen hundred and sixty-two, no private corporation, banking association, firm, or individual shall make, issue, circulate, or pay any note, check, memorandum, token, or other obligation, for a less sum than one dollar, intended to circulate as money or to be received or used in lieu of lawful money of the United States; and every person so offending shall, on conviction thereof in any district or circuit court of the United States, be punished by fine not exceeding five hundred dollars, or by imprisonment not exceeding six months, or by both, at the option of the court.

Approved, July 17, 1862.

No. 26. Militia Act

July 17, 1862

A bill to amend the laws relating to the militia was introduced in the Senate, July 14, 1862, by Wilson of Massachusetts, from the Committee on Military Affairs and Militia, and passed the next day by a vote of 28 to 9. In the House, July 16, a motion to lay the bill on the table was rejected, the vote being 30 to 77, and the bill passed without a division.

References. — *Text* in *U.S. Statutes at Large*, XII, 597–600. For the proceedings see the *House and Senate Journals*, 37th Cong., 2d Sess., and the *Cong. Globe*. On the use of negroes as soldiers see Rhodes, *United States*, IV, 333–336.

An Act to amend the Act calling forth the Militia to execute the Laws of the Union, suppress Insurrections, and repel Invasions, approved February twenty-eight, seventeen hundred and ninety-five, and the Acts amendatory thereof, and for other Purposes.

Be it enacted . . ., That whenever the President of the United States shall call forth the militia of the States, to be employed in the service of the United States, he may specify in his call the period for which such service will be required, not exceed-

ing nine months; and the militia so called shall be mustered in and continue to serve for and during the term so specified, unless sooner discharged by command of the President. If by reason of defects in existing laws, or in the execution of them, in the several States, or any of them, it shall be found necessary to provide for enrolling the militia and otherwise putting this act into execution, the President is authorized in such cases to make all necessary rules and regulations; and the enrolment of the militia shall in all cases include all able-bodied male citizens between the ages of eighteen and forty-five, and shall be apportioned among the States according to representative population.

SEC. 2. *And be it further enacted*, That the militia, when so called into service, shall be organized in the mode prescribed by law for volunteers.

SEC. 3. *And be it further enacted*, That the President be, and he is hereby, authorized, in addition to the volunteer forces which he is now authorized by law to raise, to accept the services of any number of volunteers, not exceeding one hundred thousand, as infantry, for a period of nine months, unless sooner discharged. And every soldier who shall enlist under the provisions of this section shall receive his first month's pay, and also twenty-five dollars as bounty, upon the mustering of his company or regiment into the service of the United States. . . .

SEC. 4. *And be it further enacted*, That, for the purpose of filling up the regiments of infantry now in the United States service, the President be, and he hereby is, authorized to accept the services of volunteers in such numbers as may be presented for that purpose, for twelve months, if not sooner discharged. And such volunteers, when mustered into the service, shall be in all respects upon a footing with similar troops in the United States service, except as to service bounty, which shall be fifty dollars, one half of which to be paid upon their joining their regiments, and the other half at the expiration of their enlistment.

* * * * * * *

SEC. 12. *And be it further enacted*, That the President be, and he is hereby, authorized to receive into the service of the United States, for the purpose of constructing intrenchments, or performing camp service, or any other labor, or any military or naval service for which they may be found competent, persons of African descent, and such persons shall be enrolled and organized under such regulations, not inconsistent with the Constitution and laws, as the President may prescribe.

SEC. 13. *And be it further enacted*, That when any man or boy of African descent, who by the laws of any State shall owe service or labor to any person who, during the present rebellion, has levied war or has borne arms against the United States, or adhered to their enemies by giving them aid and comfort, shall render any such service as is provided for in this act, he, his mother and his wife and children, shall forever thereafter be free, any law, usage, or custom whatsoever to the contrary notwithstanding: *Provided*, That the mother, wife and children of such man or boy of African descent shall not be made free by the operation of this act except where such mother, wife or children owe service or labor to some person who, during the present rebellion, has borne arms against the United States or adhered to their enemies by giving them aid and comfort.

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APPROVED, July 17, 1862.

[The omitted sections deal with details of organization, trial by court-martial, &c.]

No. 27. Act admitting West Virginia

December 31, 1862

A MEMORIAL from the commissioners of West Virginia, setting forth the history of the formation of the State and praying for admission to the Union, was presented in the Senate May 31, 1862, and referred to the Committee on the Territories, who reported, June 23, a bill for the admission of West Virginia as a State. July 14, by a vote of 11 to 24, an amendment offered by Sumner, prohibiting slavery in the State, was rejected, and the bill, with further amend-

ments, passed, the vote being 23 to 17. On the 16th, in the House, further consideration of the bill was postponed until December. December 10 the bill was taken up, read three times, and, by a vote of 96 to 57, passed. The bill was not presented to the President until the 22d. The proclamation announcing the compliance of West Virginia with the conditions of the act was issued April 20, 1863.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XII, 633, 634. For the proceedings see the *House and Senate Journals*, 37th Cong., 3d Sess., and the *Cong. Globe*. The memorial of the commissioners is *Senate Misc. Doc. 99*, 37th Cong., 2d Sess. See Nicolay and Hay, *Lincoln*, VI, chap. 14.

An Act for the Admission of the State of "West Virginia" into the Union, and for other Purposes.

Whereas the people inhabiting that portion of Virginia known as West Virginia did, by a Convention assembled in the city of Wheeling on the twenty-sixth of November, eighteen hundred and sixty-one, frame for themselves a Constitution with a view of becoming a separate and independent State; and whereas at a general election held in the counties composing the territory aforesaid on the third day of May last, the said Constitution was approved and adopted by the qualified voters of the proposed State; and whereas the Legislature of Virginia, by an act passed on the thirteenth day of May, eighteen hundred and sixty-two, did give its consent to the formation of a new State within the jurisdiction of the said State of Virginia, to be known by the name of West Virginia, and to embrace the following named counties, to wit: Hancock, Brooke, Ohio, Marshall, Wetzel, Marion, Monongalia, Preston, Taylor, Tyler, Pleasants, Ritchie, Doddridge, Harrison, Wood, Jackson, Wirt, Roane, Calhoun, Gilmer, Barbour, Tucker, Lewis, Braxton, Upshur, Randolph, Mason, Putnam, Kanawha, Clay, Nicholas, Cabell, Wayne, Boone, Logan, Wyoming, Mercer, McDowell, Webster, Pocahontas, Fayette, Raleigh, Greenbrier, Monroe, Pendleton, Hardy, Hampshire, and Morgan; and whereas both the Convention and the Legislature aforesaid have requested that the new State should be admitted into the Union, and the Constitution aforesaid being republican in form, Congress doth hereby

consent that the said forty-eight counties may be formed into a separate and independent State. Therefore —

Be it enacted . . ., That the State of West Virginia be, and is hereby, declared to be one of the United States of America, and admitted into the Union on an equal footing with the original States in all respects whatever, and until the next general census shall be entitled to three members in the House of Representatives of the United States: *Provided, always*, That this act shall not take effect until after the proclamation of the President of the United States hereinafter provided for.

It being represented to Congress that since the Convention of the twenty-sixth of November, eighteen hundred and sixty-one, that framed and proposed the Constitution for the said State of West Virginia, the people thereof have expressed a wish to change the seventh section of the eleventh article of said Constitution by striking out the same and inserting the following in its place, viz.: "The children of slaves born within the limits of this State after the fourth day of July, eighteen hundred and sixty-three, shall be free; and that all slaves within the said State who shall, at the time aforesaid, be under the age of ten years, shall be free when they arrive at the age of twenty-one years; and all slaves over ten and under twenty-one years shall be free when they arrive at the age of twenty-five years; and no slave shall be permitted to come into the State for permanent residence therein:" Therefore —

SEC. 2. *Be it further enacted*, That whenever the people of West Virginia shall, through their said Convention, and by a vote to be taken at an election to be held within the limits of the said State, at such time as the Convention may provide, make, and ratify the change aforesaid, and properly certify the same under the hand of the president of the Convention, it shall be lawful for the President of the United States to issue his proclamation stating the fact, and thereupon this act shall take effect and be in force from and after sixty days from the date of said proclamation.

APPROVED, December 31, 1862.

No. 28. Emancipation Proclamation

January 1, 1863

A DRAFT of an emancipation proclamation was read to the Cabinet by Lincoln, July 22, 1862, but at Seward's suggestion the paper was laid aside until an important Union victory should have been won. The desired victory came at Antietam, September 16–17. A preliminary proclamation was issued September 22, and the definitive one January 1, 1863. December 15, in the House, a resolution declaring that the proclamation of September 22 "is warranted by the Constitution," and that the policy of emancipation "was well chosen as a war measure, and is an exercise of power with proper regard for the rights of the States and the perpetuity of free government," was adopted by a vote of 78 to 51.

REFERENCES.—*Text* in *U.S. Statutes at Large*, XII, 1268, 1269. Various resolutions submitted in the House and Senate are collected in McPherson, *Rebellion*, 209–233; on Fremont's proclamation of August 31, 1861, see *ibid.*, 245–247. On the general subject see Adams, *Charles Francis Adams*, chap. 16; Morse, *Lincoln*, II, chaps. 1, 4; McCall, *Thaddeus Stevens*, chap. 12; Storey, *Sumner*, chap. 12; John Sherman, *Recollections*, I, chap. 14; Nicolay and Hay, *Lincoln*, VI, chaps. 6, 8, 9; Rhodes, *United States*, IV, 69–72, 157–163, 212–219; Dunning, *Essays*, 49–56; Garrisons' *Garrison*, IV, chap. 3; *House Exec. Doc. 72*, 37th Cong., 3d Sess.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

WHEREAS, on the twenty-second day of September, in the year of our Lord one thousand eight hundred and sixty-two, a proclamation was issued by the President of the United States, containing, among other things, the following, to wit:

"That on the first day of January, in the year of our Lord one thousand eight hundred and sixty-three, all persons held as slaves within any state or designated part of a state, the people whereof shall then be in rebellion against the United States, shall be then, thenceforward, and forever, free; and the Executive Government of the United States, including the military and naval authority thereof, will recognize and maintain the

freedom of such persons, and will do no act or acts to repress such persons, or any of them, in any efforts they may make for their actual freedom.

"That the Executive will, on the first day of January aforesaid, by proclamation, designate the states and parts of states, if any, in which the people thereof, respectively, shall then be in rebellion against the United States; and the fact that any state, or the people thereof, shall on that day be in good faith represented in the Congress of the United States, by members chosen thereto at elections wherein a majority of the qualified voters of such states shall have participated, shall, in the absence of strong countervailing testimony, be deemed conclusive evidence that such state, and the people thereof, are not then in rebellion against the United States."

Now, therefore, I, Abraham Lincoln, President of the United States, by virtue of the power in me vested as commander-in-chief of the army and navy of the United States, in time of actual armed rebellion against the authority and Government of the United States, and as a fit and necessary war measure for suppressing said rebellion, do, on this first day of January, in the year of our Lord one thousand eight hundred and sixty-three, and in accordance with my purpose so to do, publicly proclaimed for the full period of one hundred days from the day first above mentioned, order and designate as the states and parts of states wherein the people thereof, respectively, are this day in rebellion against the United States, the following, to wit:

Arkansas, Texas, Louisiana, (except the parishes of St. Bernard, Plaquemines, Jefferson, St. John, St. Charles, St. James, Ascension, Assumption, Terre Bonne, Lafourche, St. Mary, St. Martin, and Orleans, including the city of New Orleans,) Mississippi, Alabama, Florida, Georgia, South Carolina, North Carolina, and Virginia, (except the forty-eight counties designated as West Virginia, and also the counties of Berkeley, Accomac, Northampton, Elizabeth City, York, Princess Ann, and Norfolk, including the cities of Norfolk and Portsmouth,) and which

excepted parts are for the present left precisely as if this proclamation were not issued.

And by virtue of the power and for the purpose aforesaid, I do order and declare that all persons held as slaves within said designated states and parts of states are, and henceforward shall be, free; and that the Executive Government of the United States, including the military and naval authorities thereof, will recognize and maintain the freedom of said persons.

And I hereby enjoin upon the people so declared to be free to abstain from all violence, unless in necessary self-defence; and I recommend to them that, in all cases when allowed, they labor faithfully for reasonable wages.

And I further declare and make known that such persons, of suitable condition, will be received into the armed service of the United States to garrison forts, positions, stations, and other places, and to man vessels of all sorts in said service.

And upon this act, sincerely believed to be an act of justice, warranted by the Constitution upon military necessity, I invoke the considerate judgment of mankind and the gracious favor of Almighty God.

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No. 29. Act to punish Correspondence with Rebels

February 25, 1863

ACCORDING to Sumner, the purpose of this act was to extend the principle of an act of January 30, 1799, relating to treasonable correspondence with foreigners, to correspondence with supporters of the rebellion. The bill was introduced by Sumner January 7, and passed the Senate, February 13, without a division. The House passed the bill on the 21st, also without a division. There was no debate of importance in either house.

REFERENCE. — *Text* in *U.S. Statutes at Large*, XII, 696.

An Act to prevent Correspondence with Rebels.

Be it enacted . . ., That if any person, being a resident of the United States, or being a citizen thereof, and residing in any foreign country, shall, without the permission or authority of the Government of the United States, and with the intent to defeat the measures of the said Government, or to weaken in any way their efficacy, hold or commence, directly or indirectly, any correspondence or intercourse, written or verbal, with the present pretended rebel Government, or with any officer or agent thereof, or with any other individual acting or sympathizing therewith; or if any such person above mentioned, not duly authorized, shall counsel or assist in any such correspondence or intercourse, with intent as aforesaid, he shall be deemed guilty of a high misdemeanor, and, on conviction before any court of the United States having jurisdiction thereof, shall be punished by a fine not exceeding ten thousand dollars, and by imprisonment not less than six months nor exceeding five years.

Sec. 2. *And be it further enacted*, That where the offence is committed in any foreign country, the district court of the United States for the district where the offender shall be first arrested shall have jurisdiction thereof.

Approved, February 25, 1863.

No. 30. Act to provide Ways and Means for the Support of the Government

March 3, 1863

A bill to provide ways and means for the support of the Government was reported in the House, January 8, 1863, by Thaddeus Stevens, from the Committee of Ways and Means, taken up January 12 and debated from day to day, and on the 26th passed without a division. The Senate passed the bill with numerous amendments, February 13, by a vote of 32 to 4. Two conference committees were necessary to settle the form of the bill. The principal disagreement between the houses was over the taxation of bank circulation, the twenty-third amendment of the Senate having lowered the rate of taxation

provided by the House bill. The report of the second conference committee was accepted February 28.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XII, 709–713. For the proceedings see the *House and Senate Journals*, 37th Cong., 3d Sess., and the *Cong. Globe*. There is a summary of the House bill in the *Globe*, February 13, Senate proceedings.

An Act to provide Ways and Means for the Support of the Government.

Be it enacted . . ., That the Secretary of the Treasury be, and he is hereby, authorized to borrow, from time to time, on the credit of the United States, a sum not exceeding three hundred millions of dollars for the current fiscal year, and six hundred millions for the next fiscal year, and to issue therefor coupon or registered bonds, payable at the pleasure of the Government after such periods as may be fixed by the Secretary, not less than ten nor more than forty years from date, in coin, and of such denominations not less than fifty dollars as he may deem expedient, bearing interest at a rate not exceeding six per centum per annum, payable on bonds not exceeding one hundred dollars, annually, and on all other bonds semi-annually, in coin; and he may, in his discretion, dispose of such bonds at any time, upon such terms as he may deem most advisable, for lawful money of the United States, or for any of the certificates of indebtedness or deposit that may at any time be unpaid, or for any of the treasury notes heretofore issued or which may be issued under the provisions of this act. And all the bonds and treasury notes or United States notes issued under the provisions of this act shall be exempt from taxation by or under state or municipal authority: *Provided*, That there shall be outstanding of bonds, treasury notes, and United States notes, at any time, issued under the provisions of this act, no greater amount altogether than the sum of nine hundred millions of dollars.

SEC. 2. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized to issue, on the credit of the United States, four hundred millions of dollars in treasury

notes, payable at the pleasure of the United States, or at such time or times not exceeding three years from date as may be found most beneficial to the public interest, and bearing interest at a rate not exceeding six per centum per annum, payable at periods expressed on the face of said treasury notes; and the interest on the said treasury notes and on certificates of indebtedness and deposit hereafter issued, shall be paid in lawful money. The treasury notes thus issued shall be of such denomination as the Secretary may direct, not less than ten dollars, and may be disposed of on the best terms that can be obtained, or may be paid to any creditor of the United States willing to receive the same at par. And said treasury notes may be made a legal tender to the same extent as United States notes, for their face value excluding interest; or they may be made exchangeable under regulations prescribed by the Secretary of the Treasury, by the holder thereof at the treasury in the city of Washington, or at the office of any assistant treasurer or depositary designated for that purpose, for United States notes equal in amount to the treasury notes offered for exchange, together with the interest accrued and due thereon at the date of interest payment next preceding such exchange. And in lieu of any amount of said treasury notes thus exchanged, or redeemed or paid at maturity, the Secretary may issue an equal amount of other treasury notes; and the treasury notes so exchanged, redeemed, or paid, shall be cancelled and destroyed as the Secretary may direct. In order to secure certain and prompt exchanges of United States notes for treasury notes when required as above provided, the Secretary shall have power to issue United States notes to the amount of one hundred and fifty millions of dollars, which may be used if necessary for such exchanges; but no part of the United States notes authorized by this section shall be issued for or applied to any other purposes than said exchanges; and whenever any amount shall have been so issued and applied, the same shall be replaced as soon as practicable from the sales of treasury notes for United States notes.

SEC. 3. *And be it further enacted*, That the Secretary of the

Treasury be, and he is hereby, authorized, if required by the exigencies of the public service, for the payment of the army and navy, and other creditors of the government, to issue on the credit of the United States the sum of one hundred and fifty millions of dollars of United States notes, including the amount of such notes heretofore authorized by the joint resolution approved January seventeen, eighteen hundred and sixty-three, in such form as he may deem expedient, not bearing interest, payable to bearer, and of such denominations, not less than one dollar, as he may prescribe, which notes so issued shall be lawful money and a legal tender in payment of all debts, public and private, within the United States, except for duties on imports and interest on the public debt; and any of the said notes, when returned to the treasury, may be reissued from time to time as the exigencies of the public service may require. And in lieu of any of said notes, or any other United States notes, returned to the treasury, and cancelled or destroyed, there may be issued equal amounts of United States notes, such as are authorized by this act. . . . [So much of the acts of February 25 and July 11, 1862, as restricts the negotiation of bonds to market value, repealed.] . . . And the holders of United States notes, issued under and by virtue of said acts, shall present the same for the purpose of exchanging the same for bonds, as therein provided, on or before the first day of July, eighteen hundred and sixty-three, and thereafter the right so to exchange the same shall cease and determine.

SEC. 4. *And be it further enacted*, That in lieu of postage and revenue stamps for fractional currency, and of fractional notes, commonly called postage currency, issued or to be issued, the Secretary of the Treasury may issue fractional notes of like amounts in such form as he may deem expedient. . . . And all such notes issued shall be exchangeable by the assistant-treasurers and designated depositaries for United States notes, in sums not less than three dollars, and shall be receivable for postage and revenue stamps, and also in payment of any dues

to the United States less than five dollars, except duties on imports, and shall be redeemed on presentation at the treasury of the United States in such sums and under such regulations as the Secretary of the Treasury shall prescribe: *Provided*, That the whole amount of fractional currency issued, including postage and revenue stamps issued as currency, shall not exceed fifty millions of dollars.

SEC. 5. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized to receive deposits of gold coin and bullion with the treasurer or any assistant-treasurer of the United States, in sums not less than twenty dollars, and to issue certificates therefor, in denominations of not less than twenty dollars each, corresponding with the denominations of the United States notes. The coin and bullion deposited for or representing the certificates of deposit shall be retained in the treasury for the payment of the same on demand. And certificates representing coin in the treasury may be issued in payment of interest on the public debt, which certificates, together with those issued for coin and bullion deposited, shall not at any time exceed twenty per centum beyond the amount of coin and bullion in the treasury; and the certificates for coin or bullion in the treasury shall be received at par in payment for duties on imports.

SEC. 6. [Secretary to determine form of bonds and notes, &c.]

SEC. 7. *And be it further enacted*, That all banks, associations, corporations, or individuals, issuing notes or bills for circulation as currency, shall be subject to and pay a duty of one per centum each half year from and after April first, eighteen hundred and sixty-three, upon the average amount of circulation of notes or bills as currency issued beyond the amount hereinafter named, that is to say: banks, associations, corporations, or individuals, having a capital of not over one hundred thousand dollars, ninety per centum thereof; over one hundred thousand and not over two hundred thousand dollars, eighty per centum thereof; over two hundred thousand and not over three hundred thousand dollars, seventy per centum thereof; over three hundred thou-

sand and not over five hundred thousand dollars, sixty per centum thereof; over five hundred thousand and not over one million of dollars, fifty per centum thereof; over one million and not over one million and a half of dollars, forty per centum thereof; over one million and a half, and not over two millions of dollars, thirty per centum thereof; over two millions of dollars, twenty-five per centum thereof. In the case of banks with branches, the duty herein provided for shall be imposed upon the circulation of the notes or bills of such branches severally, and not upon the aggregate circulation of all; and the amount of capital of each branch shall be considered to be the amount allotted to or used by such branch; and all such banks, associations, corporations, and individuals shall also be subject to and pay a duty of one half of one per centum each half year from and after April first, eighteen hundred and sixty-three, upon the average amount of notes or bills not otherwise herein taxed and outstanding as currency during the six months next preceding the return hereinafter provided for; and the rates of tax or duty imposed on the circulation of associations which may be organized under the act "to provide a national currency, secured by a pledge of United States stocks, and to provide for the circulation and redemption thereof," approved February twenty-fifth, eighteen hundred and sixty-three, shall be the same as that hereby imposed on the circulation and deposits of all banks, associations, corporations, or individuals, but shall be assessed and collected as required by said act; all banks, associations, or corporations, and individuals issuing or reissuing notes or bills for circulation as currency after April first, eighteen hundred and sixty-three, in sums representing any fractional part of a dollar, shall be subject to and pay a duty of five per centum each half year thereafter upon the amount of such fractional notes or bills so issued. And all banks, associations, corporations, and individuals receiving deposits of money subject to payment on check or draft, except savings institutions, shall be subject to a duty of one eighth of one per centum each half year from and after April first, eighteen hundred and sixty-

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three, upon the average amount of such deposits beyond the average amount of their circulating notes or bills lawfully issued and outstanding as currency. . . .[1]

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Approved, March 3, 1863.

No. 31. Enrolment Act

March 3, 1863

August 4, 1862, Lincoln ordered a draft of 300,000 men. Four days later it was ordered that no citizen liable to be drafted should be allowed to go to a foreign country. The draft was completed early in September. A bill to provide for enrolling and calling out the national forces was reported in the Senate, February 9, 1863, by Wilson of Massachusetts, from the Committee on Military Affairs and Militia, to whom the subject had been referred, and on the 16th passed without a division. In the House a motion to limit the enrolment to white citizens was lost by a vote of 53 to 85; an attempt to strike out the $300 commutation clause also failed, the vote being 67 to 87. February 25 the bill passed the House. The Senate concurred in the House amendments, and March 3 the act was approved. A proclamation under section twenty-six of the act was issued March 10, followed May 8 by a proclamation relative to the status of aliens under the act.

References. — *Text* in *U.S. Statutes at Large*, XII, 731–737. For the proceedings see the *House and Senate Journals*, 37th Cong., 3d Sess., and the *Cong. Globe*. A summary of the bill as reported in the Senate is in the *Globe*, February 16. The executive orders of August 4 and 8, 1862, are in Richardson, *Messages and Papers of the Presidents*, VI, 120–121. On the enforcement of the act see the annual report of the Secretary of War, 1863. On the draft riots in New York see Rhodes, *United States*, IV, 320–328; see also Nicolay and Hay, *Lincoln*, VII, chap. 1.

[1] The Internal Revenue Act of March 3, 1865, section 6, imposed a tax of ten per cent on the amount of the notes of any State bank or State banking association paid out by them after July 1, 1866. By the internal revenue act of July 13, 1866, this section was amended so as to include the notes of "persons" as well as of banks, the notes were further described as "used for circulation," and the date for the imposition of the tax was changed to August 1, 1866. The purpose of the tax was not, of course, to produce revenue, but to prevent the circulation of State bank notes. On the constitutionality of this prohibition see *Veazie Bank* v. *Fenno*, 8 *Wallace*, 533.

An Act for enrolling and calling out the national Forces, and for other Purposes.

WHEREAS there now exist in the United States an insurrection and rebellion against the authority thereof, and it is, under the Constitution of the United States, the duty of the government to suppress insurrection and rebellion, to guarantee to each State a republican form of government, and to preserve the public tranquillity; and whereas, for these high purposes, a military force is indispensable, to raise and support which all persons ought willingly to contribute; and whereas no service can be more praiseworthy and honorable than that which is rendered for the maintenance of the Constitution and Union, and the consequent preservation of free government: Therefore —

Be it enacted . . ., That all able-bodied male citizens of the United States, and persons of foreign birth who shall have declared on oath their intention to become citizens under and in pursuance of the laws thereof, between the ages of twenty and forty-five years, except as hereinafter excepted, are hereby declared to constitute the national forces, and shall be liable to perform military duty in the service of the United States when called out by the President for that purpose.

SEC. 2. *And be it further enacted*, That the following persons be, and they are hereby, excepted and exempt from the provisions of this act, and shall not be liable to military duty under the same, to wit: Such as are rejected as physically or mentally unfit for the service; also, First the Vice-President of the United States, the judges of the various courts of the United States, the heads of the various executive departments of the government, and the governors of the several States. Second, the only son liable to military duty of a widow dependent upon his labor for support. Third, the only son of aged or infirm parent or parents dependent upon his labor for support. Fourth, where there are two or more sons of aged or infirm parents subject to draft, the father, or, if he be dead, the mother, may elect which son shall

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be exempt. Fifth, the only brother of children not twelve years old, having neither father nor mother dependent upon his labor for support. Sixth, the father of motherless children under twelve years of age dependent upon his labor for support. Seventh, where there are a father and sons in the same family and household, and two of them are in the military service of the United States as non-commissioned officers, musicians, or privates, the residue of such family and household, not exceeding two, shall be exempt. And no persons but such as are herein excepted shall be exempt: *Provided, however*, That no person who has been convicted of any felony shall be enrolled or permitted to serve in said forces.

SEC. 3. *And be it further enacted*, That the national forces of the United States not now in the military service, enrolled under this act, shall be divided into two classes: the first of which shall comprise all persons subject to do military duty between the ages of twenty and thirty-five years, and all unmarried persons subject to do military duty above the age of thirty-five and under the age of forty-five; the second class shall comprise all other persons subject to do military duty, and they shall not, in any district, be called into the service of the United States until those of the first class shall have been called.[1]

SEC. 4. *And be it further enacted*, That, for greater convenience in enrolling, calling out, and organizing the national forces, and for the arrest of deserters and spies of the enemy, the United States shall be divided into districts, of which the District of Columbia shall constitute one, each territory of the United States shall constitute one or more, as the President shall direct, and each congressional district of the respective states, as fixed by a law of the state next preceding the enrolment, shall constitute one: *Provided*, That in states which have not by their laws been divided into two or more congressional districts, the President of the United States shall divide the same into so many enrolment districts as he may deem fit and convenient.

[1] See act of February 24, 1864, section 11.

SEC. 5. *And be it further enacted*, That for each of said districts there shall be appointed by the President a provost-marshal, with the rank, pay, and emoluments of a captain of cavalry, or an officer of said rank shall be detailed by the President, who shall be under the direction and subject to the orders of a provost-marshal-general, appointed or detailed by the President of the United States, whose office shall be at the seat of government, forming a separate bureau of the War Department. . . .

[Sections 6 and 7. Duties of provost-marshal-general and provost marshals.]

SEC. 8. *And be it further enacted*, That in each of said districts there shall be a board of enrolment, to be composed of the provost-marshal, as president, and two other persons, to be appointed by the President of the United States, one of whom shall be a licensed and practising physician and surgeon.

SEC. 9. *And be it further enacted*, That it shall be the duty of the said board to divide the district into sub-districts of convenient size, if they shall deem it necessary, not exceeding two, without the direction of the Secretary of War, and to appoint, on or before the tenth day of March next, and in each alternate year thereafter, an enrolling officer for each sub-district, and to furnish him with proper blanks and instructions; and he shall immediately proceed to enrol all persons subject to military duty, noting their respective places of residence, ages on the first day of July following, and their occupation, and shall, on or before the first day of April, report the same to the board of enrolment, to be consolidated into one list, a copy of which shall be transmitted to the provost-marshal-general on or before the first day of May succeeding the enrolment: *Provided, nevertheless*, That if from any cause the duties prescribed by this section cannot be performed within the time specified, then the same shall be performed as soon thereafter as practicable.

SEC. 10. *And be it further enacted*, That the enrolment of each class shall be made separately, and shall only embrace those whose ages shall be on the first day of July thereafter between twenty and forty-five years.

SEC. 11. *And be it further enacted*, That all persons thus enrolled shall be subject, for two years after the first day of July succeeding the enrolment, to be called into the military service of the United States, and to continue in service during the present rebellion, not, however, exceeding the term of three years; and when called into service shall be placed on the same footing, in all respects, as volunteers for three years, or during the war, including advance pay and bounty as now provided by law.

SEC. 12. *And be it further enacted*, That whenever it may be necessary to call out the national forces for military service, the President is hereby authorized to assign to each district the number of men to be furnished by said district; and thereupon the enrolling board shall, under the direction of the President, make a draft of the required number, and fifty per cent. in addition. . . .

SEC. 13. *And be it further enacted*, That any person drafted and notified to appear as aforesaid, may, on or before the day fixed for his appearance, furnish an acceptable substitute to take his place in the draft; or he may pay to such person as the Secretary of War may authorize to receive it, such sum, not exceeding three hundred dollars, as the Secretary may determine, for the procuration of each substitute; which sum shall be fixed at a uniform rate by a general order made at the time of ordering a draft for any state or territory; and thereupon such person so furnishing the substitute, or paying the money, shall be discharged from further liability under that draft. And any person failing to report after due service of notice, as herein prescribed, without furnishing a substitute, or paying the required sum therefor, shall be deemed a deserter, and shall be arrested by the provost-marshal and sent to the nearest military post for trial by court-martial, unless, upon proper showing that he is not liable to do military duty, the board of enrolment shall relieve him from the draft.

[Sections 14 and 15. Medical inspection of persons drafted.]

SEC. 16. [Those drafted and not wanted, to be discharged.]

SEC. 17. *And be it further enacted*, That any person enrolled and drafted according to the provisions of this act who shall furnish an acceptable substitute, shall thereupon receive from the board of enrolment a certificate of discharge from such draft, which shall exempt him from military duty during the time for which he was drafted; and such substitute shall be entitled to the same pay and allowances provided by law as if he had been originally drafted into the service of the United States.

SEC. 18. *And be it further enacted*, That such of the volunteers and militia now in the service of the United States as may reënlist to serve one year, unless sooner discharged, after the expiration of their present term of service, shall be entitled to a bounty of fifty dollars, one half of which to be paid upon such reënlistment, and the balance at the expiration of the term of reenlistment; and such as may reënlist to serve for two years, unless sooner discharged, after the expiration of their present term of enlistment, shall receive, upon such reënlistment, twenty-five dollars of the one hundred dollars bounty for enlistment provided by the fifth section of the act . . . [of July 22, 1861, chap. 9] . . .

[Sections 19 and 20. When companies may be consolidated, &c.]

[Sections 21 and 22. Courts-martial.]

SEC. 23. [Clothes, arms, &c., not to be sold or loaned.]

SEC. 24. [Penalty for inducing desertion, purchasing arms, &c.]

SEC. 25. *And be it further enacted*, That if any person shall resist any draft of men enrolled under this act into the service of the United States, or shall counsel or aid any person to resist any such draft; or shall assault or obstruct any officer in making such draft, or in the performance of any service in relation thereto; or shall counsel any person to assault or obstruct any such officer, or shall counsel any drafted men not to appear at the place of rendezvous, or wilfully dissuade them from the performance of military duty as required by law, such person shall be subject to summary arrest by the provost-marshal, and shall be forthwith delivered to the civil authorities, and, upon

conviction thereof, be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding two years, or by both of said punishments.

SEC. 26. [President to issue proclamation to soldiers absent, to return, &c.]

[Sections 27–29 prescribe administrative details.]

SEC. 30. *And be it further enacted*, That in time of war, insurrection, or rebellion, murder, assault and battery with an intent to kill, manslaughter, mayhem, wounding by shooting or stabbing with an intent to commit murder, robbery, arson, burglary, rape, assault and battery with an intent to commit rape, and larceny, shall be punishable by the sentence of a general court-martial or military commission, when committed by persons who are in the military service of the United States, and subject to the articles of war; and the punishments for such offences shall never be less than those inflicted by the laws of the state, territory, or district in which they may have been committed.

[Sections 31 and 32. Pay, furloughs, &c.]

SEC. 33. *And be it further enacted*, That the President of the United States is hereby authorized and empowered, during the present rebellion, to call forth the national forces, by draft, in the manner provided for in this act.

SEC. 34. *And be it further enacted*, That all persons drafted under the provisions of this act shall be assigned by the President to military duty in such corps, regiments, or other branches of the service as the exigencies of the service may require.

[Sections 35–37. Special service, enlistments from volunteers to regular service, cavalry, &c.]

SEC. 38. *And be it further enacted*, That all persons who, in time of war or of rebellion against the supreme authority of the United States, shall be found lurking or acting as spies, in or about any of the fortifications, posts, quarters, or encampments of any of the armies of the United States, or elsewhere, shall be triable by a general court-martial or military commission, and shall, upon conviction, suffer death.

APPROVED, March 3, 1863.

No. 32. Act relating to Habeas Corpus

March 3, 1863

APRIL 27, 1861, Lincoln by executive order authorized General Scott, in his discretion, to suspend the privilege of the writ of *habeas corpus* on any military line between Philadelphia and Washington. July 2 this authorization was extended to the military line between New York and Washington. A proclamation of May 10 authorized suspension in the islands of Key West, the Tortugas, and Santa Rosa. Doubt as to the legality of these executive orders, however, reënforced by public criticism of the numerous arrests of civilians in pursuance of them, led to the issue, February 14, 1862, of an order directing the release of political prisoners held in military custody, "on their subscribing to a parole engaging them to render no aid or comfort to the enemies in hostility to the United States"; but a proclamation of September 24 declared all disloyal persons subject to martial law, and suspended the privilege of the writ as to such persons. An act of August 6, 1861, had in the meantime validated all the acts, proclamations, and orders of the President, relating to military affairs, issued since the 4th of March preceding. A bill "to indemnify the President and other persons for suspending the privilege of the writ of *habeas corpus*, and acts done in pursuance thereof," was introduced in the House, December 8, 1862, by Thaddeus Stevens, and passed the same day, notwithstanding strong opposition, by a vote of 91 to 46. On the 22d a protest against the bill, signed by thirty-six members of the House, was, by a vote of 75 to 40, refused entry on the journal. The bill was reported with amendments in the Senate January 15, 1863, and passed that body on the 27th, after long discussion, by a vote of 33 to 7. The House, by a vote of 35 to 114, refused to agree to the Senate amendments, and the bill received its final form from a conference committee, the Senate receding from its amendments and accepting a modified form of the House bill. A proclamation of September 15, under the act, declared a general suspension of the privilege of the writ throughout the United States; this was revoked as to the loyal States December 1, 1865. An amendatory act was passed May 11, 1866.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XII, 755–758. For the proceedings see the *House and Senate Journals*, 37th Cong., 3d Sess., and the *Cong. Globe*. The Pendleton protest is in the *Globe*, December 22; the Senate amendments, *ibid.*, February 19, House proceedings. Numerous orders, reports, letters, etc., are collected in McPherson, *Rebellion*, 152–194; see also *House Exec. Doc. 6*, 37th Cong., 1st Sess., and *Senate Exec. Doc. 11*, 37th Cong., 3d Sess. For Taney's opinion, 1861, against the right of the President to suspend, see *Ex parte Merryman*, Taney's Reports, 246; cf. Tyler, *Taney*, chap. 6. The opinion of Bates affirming the right is in *House*

Exec. Doc. 5, 37th Cong., 1st Sess. Cf. *Ex parte Milligan* (1866), 4 *Wallace*, 2, and Garfield's argument, *Works*, I, 158; *Vallandigham's Case*, 1 *Wallace*, 243. On Lincoln's proclamation of September 24, 1862, see Curtis, *Constitutional History*, II, 668–686. See also Rhodes, *United States*, IV, 169–172, 230, note 2; Dunning, *Essays*, 37–49; Thayer, *Cases on Constitutional Law*, 2374, 2375; Johnston in *Lalor's Cyclopædia*, II, 432–434; reports of the Provost Marshal General; Sydney G. Fisher in *Polit. Sci. Quart.*, III, 454; Whiting, *War Powers;* Nicolay and Hay, *Lincoln*, VII, chap. 12; VIII, chap. 2.

An Act relating to Habeas Corpus, and regulating Judicial Proceedings in Certain Cases.

Be it enacted . . ., That, during the present rebellion, the President of the United States, whenever, in his judgment, the public safety may require it, is authorized to suspend the privilege of the writ of habeas corpus in any case throughout the United States, or any part thereof. And whenever and wherever the said privilege shall be suspended, as aforesaid, no military or other officer shall be compelled, in answer to any writ of habeas corpus, to return the body of any person or persons detained by him by authority of the President; but upon the certificate, under oath, of the officer having charge of any one so detained that such person is detained by him as a prisoner under authority of the President, further proceedings under the writ of habeas corpus shall be suspended by the judge or court having issued the said writ, so long as said suspension by the President shall remain in force, and said rebellion continue.

Sec. 2. *And be it further enacted*, That the Secretary of State and the Secretary of War be, and they are hereby, directed, as soon as may be practicable, to furnish to the judges of the circuit and district courts of the United States and of the District of Columbia a list of the names of all persons, citizens of states in which the administration of the laws has continued unimpaired in the said Federal courts, who are now, or may hereafter be, held as prisoners of the United States, by order or authority of the President of the United States or either of said Secretaries, in any fort, arsenal, or other place, as state or politi-

cal prisoners, or otherwise than as prisoners of war; the said list to contain the names of all those who reside in the respective jurisdictions of said judges, or who may be deemed by the said Secretaries, or either of them, to have violated any law of the United States in any of said jurisdictions, and also the date of each arrest; . . . And in all cases where a grand jury, having attended any of said courts having jurisdiction in the premises, after the passage of this act, and after the furnishing of said list, as aforesaid, has terminated its session without finding an indictment or presentment, or other proceeding against any such person, it shall be the duty of the judge of said court forthwith to make an order that any such prisoner desiring a discharge from said imprisonment be brought before him to be discharged; and every officer of the United States having custody of such prisoner is hereby directed immediately to obey and execute said judge's order; and in case he shall delay or refuse so to do, he shall be subject to indictment for a misdemeanor, and be punished by a fine of not less than five hundred dollars and imprisonment in the common jail for a period not less than six months, in the discretion of the court: *Provided, however*, That no person shall be discharged by virtue of the provisions of this act until after he or she shall have taken an oath of allegiance to the Government of the United States, and to support the Constitution thereof; and that he or she will not hereafter in any way encourage or give aid and comfort to the present rebellion, or the supporters thereof: *And provided, also*, That the judge or court before whom such person may be brought, before discharging him or her from imprisonment, shall have power, on examination of the case, and, if the public safety shall require it, shall be required to cause him or her to enter into recognizance, with or without surety, in a sum to be fixed by said judge or court, to keep the peace and be of good behavior towards the United States and its citizens, and from time to time, and at such times as such judge or court may direct, appear before said judge or court to be further dealt with, according to law, as the circumstances may require. And it shall

be the duty of the district attorney of the United States to attend such examination before the judge.

Sec. 3. *And be it further enacted*, That in case any of such prisoners shall be under indictment or presentment for any offence against the laws of the United States, and by existing laws bail or a recognizance may be taken for the appearance for trial of such person, it shall be the duty of said judge at once to discharge such person upon bail or recognizance for trial as aforesaid. And in case the said Secretaries of State and War shall for any reason refuse or omit to furnish the said list of persons held as prisoners as aforesaid at the time of the passage of this act within twenty days thereafter, and of such persons as hereafter may be arrested within twenty days from the time of the arrest, any citizen may, after a grand jury shall have terminated its session without finding an indictment or presentment, as provided in the second section of this act, by a petition alleging the facts aforesaid touching any of the persons so as aforesaid imprisoned, supported by the oath of such petitioner or any other credible person, obtain and be entitled to have the said judge's order to discharge such prisoner on the same terms and conditions prescribed in the second section of this act: *Provided, however*, That the said judge shall be satisfied such allegations are true.

Sec. 4. *And be it further enacted*, That any order of the President, or under his authority, made at any time during the existence of the present rebellion, shall be a defence in all courts to any action or prosecution, civil or criminal, pending, or to be commenced, for any search, seizure, arrest, or imprisonment, made, done, or committed, or acts omitted to be done, under and by virtue of such order, or under color of any law of Congress, and such defence may be made by special plea, or under the general issue.

Sec. 5. [Actions against officers and others for torts in arrests may be removed to circuit court of the United States.]

Sec. 6. [Suit may be carried to the Supreme Court.]

Sec. 7. *And be it further enacted*, That no suit or prosecution,

civil or criminal, shall be maintained for any arrest or imprisonment made, or other trespasses or wrongs done or committed, or act omitted to be done, at any time during the present rebellion, by virtue or under color of any authority derived from or exercised by or under the President of the United States, or by or under any act of Congress, unless the same shall have been commenced within two years next after such arrest, imprisonment, trespass, or wrong may have been done or committed or act may have been omitted to be done: *Provided*, That in no case shall the limitation herein provided commence to run until the passage of this act, so that no party shall, by virtue of this act, be debarred of his remedy by suit or prosecution until two years from and after the passage of this act.

Approved, March 3, 1863.

No. 33. Act for the Collection of Abandoned Property

March 3, 1863

A bill "to provide for the collection of abandoned property, for the purchase of staples, and for the prevention of frauds in the insurrectionary districts within the United States," was introduced in the Senate, February 19, 1863, by Zachariah Chandler of Michigan, and referred to the Committee on Commerce, which reported it with amendments on the 26th. Of the amendments agreed to by the House, the most important were those providing that the act should not apply to naval prizes, and striking out the section authorizing the purchase of certain agricultural staples by agents of the government. The bill passed the House February 27, and the Senate March 3.

References. — *Text* in *U.S. Statutes at Large*, XII, 820, 821. For the proceedings see the *House and Senate Journals*, 37th Cong., 3d Sess., and the *Cong. Globe*. The House proceedings are not important. See also *House Exec. Doc. 99*, 39th Cong., 1st Sess.

An Act to provide for the Collection of abandoned Property and for the Prevention of Frauds in insurrectionary Districts within the United States.

Be it enacted . . ., That it shall be lawful for the Secretary of the Treasury, from and after the passage of this act, as he shall

from time to time see fit, to appoint a special agent or agents to receive and collect all abandoned or captured property in any state or territory, or any portion of any state or territory, of the United States, designated as in insurrection against the lawful Government of the United States by the proclamation of the President of July first, eighteen hundred and sixty-two: *Provided*, That such property shall not include any kind or description which has been used, or which was intended to be used, for waging or carrying on war against the United States, such as arms, ordnance, ships, steamboats, or other water craft, and the furniture, forage, military supplies, or munitions of war.

Sec. 2. *And be it further enacted*, That any part of the goods or property received or collected by such agent or agents may be appropriated to public use on due appraisement and certificate thereof, or forwarded to any place of sale within the loyal states, as the public interests may require; and all sales of such property shall be at auction to the highest bidder, and the proceeds thereof shall be paid into the treasury of the United States.

Sec. 3. *And be it further enacted*, . . . And any person claiming to have been the owner of any such abandoned or captured property may, at any time within two years after the suppression of the rebellion, prefer his claim to the proceeds thereof in the court of claims; and on proof to the satisfaction of said court of his ownership of said property, of his right to the proceeds thereof, and that he has never given any aid or comfort to the present rebellion, to receive the residue of such proceeds, after the deduction of any purchase-money which may have been paid, together with the expense of transportation and sale of said property, and any other lawful expenses attending the disposition thereof.

Sec. 4. *And be it further enacted*, That all property coming into any of the United States not declared in insurrection as aforesaid, from within any of the states declared in insurrection, through or by any other person than any agent duly appointed under the provisions of this act, or under a lawful clearance by the proper officer of the Treasury Department, shall be confiscated to the use of the Government of the United States. . . . And any agent or agents,

person or persons, by or through whom such property shall come within the lines of the United States unlawfully, as aforesaid, shall be judged guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not exceeding one thousand dollars, or imprisoned for any time not exceeding one year, or both, at the discretion of the court. . . .

SEC. 5. [Pay of special agents at ports opened in states in insurrection.]

SEC. 6. *And be it further enacted*, That it shall be the duty of every officer or private of the regular or volunteer forces of the United States, or any officer, sailor, or marine in the naval service of the United States upon the inland waters of the United States, who may take or receive any such abandoned property, or cotton, sugar, rice, or tobacco, from persons in such insurrectionary districts, or have it under his control, to turn the same over to an agent appointed as aforesaid, who shall give a receipt therefor; and in case he shall refuse or neglect so to do, he shall be tried by a court-martial, and shall be dismissed from the service, or, if an officer, reduced to the ranks, or suffer such other punishment as said court shall order, with the approval of the President of the United States.

SEC. 7. *And be it further enacted*, That none of the provisions of this act shall apply to any lawful maritime prize by the naval forces of the United States.

APPROVED, March 12,[1] 1863.

No. 34. Resolution against Foreign Mediation

March 3, 1863

DECEMBER 4, 1862, Thaddeus Stevens offered in the House four resolutions, one of which declared "that this government can never accept the mediation nor permit the intervention of any foreign nation during this rebellion in our domestic affairs." A report from the Secretary of State, with documents, "on the subjects of mediation, arbitration, or other measures look-

[1] See *House Report 108*, 38th Cong., 1st Sess.

ing to the termination of the existing civil war," was laid before the Senate February 12, 1863, and referred to the Committee on Foreign Relations, which reported on the 28th, through Charles Sumner, the resolution following. The resolution passed the Senate March 3, by a vote of 31 to 5, and the House on the same day by a vote of 103 to 28.

References. — *Text* in *Senate Journal*, 37th Cong., 3d Sess., 367, 368. There was no debate in the House. For the diplomatic correspondence see *British and Foreign State Papers*, LV, 412–451. See also Nicolay and Hay, *Lincoln*, VI, chap. 4.

Whereas it appears from the diplomatic correspondence submitted to Congress that a proposition, friendly in form, looking to pacification through foreign mediation, has been made to the United States by the Emperor of the French and promptly declined by the President; and whereas the idea of mediation or intervention in some shape may be regarded by foreign governments as practicable, and such governments, through this misunderstanding, may be led to proceedings tending to embarrass the friendly relations which now exist between them and the United States; and whereas, in order to remove for the future all chance of misunderstanding on this subject, and to secure for the United States the full enjoyment of that freedom from foreign interference which is one of the highest rights of independent states, it seems fit that Congress should declare its convictions thereon: Therefore —

Resolved, (the House of Representatives concurring,) That while in times past the United States have sought and accepted the friendly mediation or arbitration of foreign powers for the pacific adjustment of *international* questions, where the United States were the party of the one part and some other sovereign power the party of the other part; and while they are not disposed to misconstrue the natural and humane desire of foreign powers to aid in arresting *domestic* troubles, which, widening in their influence, have afflicted other countries, especially in view of the circumstance, deeply regretted by the American people, that the blow aimed by the rebellion at the national life has fallen heavily upon the laboring population of Europe: yet, notwith-

standing these things, Congress cannot hesitate to regard every proposition of foreign interference in the present contest as so far unreasonable and inadmissible that its only explanation will be found in a misunderstanding of the true state of the question, and of the real character of the war in which the republic is engaged.

Resolved, That the United States are now grappling with an unprovoked and wicked rebellion, which is seeking the destruction of the republic that it may build a new power, whose corner-stone, according to the confession of its chief, shall be slavery; that for the suppression of this rebellion, and thus to save the republic and to prevent the establishment of such a power, the national government is now employing armies and fleets, in full faith that through these efforts all the purposes of conspirators and rebels will be crushed; that while engaged in this struggle, on which so much depends, any proposition from a foreign power, whatever form it may take, having for its object the arrest of these efforts, is, just in proportion to its influence, an encouragement to the rebellion, and to its declared pretensions, and, on this account, is calculated to prolong and embitter the conflict, to cause increased expenditure of blood and treasure, and to postpone the much-desired day of peace; that, with these convictions, and not doubting that every such proposition, although made with good intent, is injurious to the national interests, Congress will be obliged to look upon any further attempt in the same direction as an unfriendly act which it earnestly deprecates, to the end that nothing may occur abroad to strengthen the rebellion or to weaken those relations of good will with foreign powers which the United States are happy to cultivate.

Resolved, That the rebellion from its beginning, and far back even in the conspiracy which preceded its outbreak, was encouraged by the hope of support from foreign powers; that its chiefs frequently boasted that the people of Europe were so far dependent upon regular supplies of the great southern staple that, sooner or later, their governments would be constrained to take

side with the rebellion in some effective form, even to the extent of forcible intervention, if the milder form did not prevail; that the rebellion is now sustained by this hope, which every proposition of foreign interference quickens anew, and that, without this life-giving support, it must soon yield to the just and paternal authority of the national government; that, considering these things, which are aggravated by the motive of the resistance thus encouraged, the United States regret that foreign powers have not frankly told the chiefs of the rebellion that the work in which they are engaged is hateful, and that a new government, such as they seek to found, with slavery as its acknowledged cornerstone, and with no other declared object of separate existence, is so far shocking to civilization and the moral sense of mankind that it must not expect welcome or recognition in the commonwealth of nations.

Resolved, That the United States, confident in the justice of their cause, which is the cause, also, of good government and of human rights everywhere among men; anxious for the speedy restoration of peace, which shall secure tranquillity at home and remove all occasion of complaint abroad; and awaiting with well-assured trust the final suppression of the rebellion, through which all these things, rescued from present danger, will be secured forever, and the republic, one and indivisible, triumphant over its enemies, will continue to stand an example to mankind, *hereby announce*, as their unalterable purpose, that the war will be vigorously prosecuted, according to the humane principles of Christian states, until the rebellion shall be overcome; and they reverently invoke upon their cause the blessings of Almighty God.

Resolved, That the President be requested to transmit a copy of these resolutions, through the Secretary of State, to the ministers of the United States in foreign countries, that the declaration and protest herein set forth may be communicated by them to the governments to which they are accredited.

No. 35. Proclamation of Amnesty

December 8, 1863

THE proclamation of December 8, 1863, offering amnesty on conditions, was issued under authority of the so-called Confiscation Act of July 17, 1862 [No. 24]. In his annual message of the same date, Lincoln urged the propriety of the proclamation, and expressed the opinion "that nothing is attempted beyond what is amply justified by the Constitution." A supplementary proclamation of March 26, 1864, explained that the previous proclamation did not apply to prisoners of war.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XIII, Appendix, vii–ix. A circular to United States district attorneys is in McPherson, *Rebellion*, 148, 149. See also Cox, *Three Decades*, chap. 33; Johnston in *Lalor's Cyclopædia*, I, 89, 90; Nicolay and Hay, *Lincoln*, IX, chap. 19; Blaine, *Twenty Years of Congress*, I, chap. 21; McCall, *Thaddeus Stevens*, chap. 13.

[THE proclamation begins with a statement of the constitutional right of the President to grant pardons, of the existence of rebellion in certain States, of the authorization of pardon by proclamation under the Confiscation Act, and of the previous issuance of proclamations "in regard to the liberation of slaves," and continues:] and

Whereas, it is now desired by some persons heretofore engaged in said rebellion to resume their allegiance to the United States, and to reinaugurate loyal state governments within and for their respective states: Therefore —

I, ABRAHAM LINCOLN, President of the United States, do proclaim, declare, and make known to all persons who have, directly or by implication, participated in the existing rebellion, except as hereinafter excepted, that a full pardon is hereby granted to them and each of them, with restoration of all rights of property, except as to slaves, and in property cases where rights of third parties shall have intervened, and upon the condition that every such person shall take and subscribe an oath, and thenceforward keep and maintain said oath inviolate; and which oath shall be registered for permanent preservation, and shall be of the tenor and effect following, to wit: —

"I, ——— ———, do solemnly swear, in presence of Almighty God, that I will henceforth faithfully support, protect, and defend the Constitution of the United States and the Union of the States thereunder; and that I will, in like manner, abide by and faithfully support all acts of congress passed during the existing rebellion with reference to slaves, so long and so far as not repealed, modified, or held void by congress, or by decision of the supreme court; and that I will, in like manner, abide by and faithfully support all proclamations of the President made during the existing rebellion having reference to slaves, so long and so far as not modified or declared void by decision of the supreme court. So help me God."

The persons excepted from the benefits of the foregoing provisions are all who are, or shall have been, civil or diplomatic officers or agents of the so-called Confederate government; all who have left judicial stations under the United States to aid the rebellion; all who are, or shall have been, military or naval officers of said so-called Confederate government above the rank of colonel in the army or of lieutenant in the navy; all who left seats in the United States congress to aid the rebellion; all who resigned commissions in the army or navy of the United States and afterwards aided the rebellion; and all who have engaged in any way in treating colored persons, or white persons in charge of such, otherwise than lawfully as prisoners of war, and which persons may have been found in the United States service as soldiers, seamen, or in any other capacity.

And I do further proclaim, declare, and make known that whenever, in any of the States of Arkansas, Texas, Louisiana, Mississippi, Tennessee, Alabama, Georgia, Florida, South Carolina, and North Carolina,[1] a number of persons, not less than one tenth in number of the votes cast in such state at the presidential election of the year of our Lord one thousand eight hundred and sixty, each having taken the oath aforesaid, and not

[1] The omission of Virginia is explained by the fact that Lincoln had already recognized the so-called Pierpont government.

having since violated it, and being a qualified voter by the election law of the state existing immediately before the so-called act of secession, and excluding all others, shall reëstablish a state government which shall be republican, and in nowise contravening said oath, such shall be recognized as the true government of the state, and the state shall receive thereunder the benefits of the constitutional provision which declares that "the United States shall guaranty to every state in this Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or the executive, (when the legislature cannot be convened,) against domestic violence."

And I do further proclaim, declare, and make known that any provision which may be adopted by such state government in relation to the freed people of such state, which shall recognize and declare their permanent freedom, provide for their education, and which may yet be consistent as a temporary arrangement with their present condition as a laboring, landless, and homeless class, will not be objected to by the National Executive.

And it is suggested as not improper that, in constructing a loyal state government in any state, the name of the state, the boundary, the subdivisions, the constitution, and the general code of laws, as before the rebellion, be maintained, subject only to the modifications made necessary by the conditions hereinbefore stated, and such others, if any, not contravening said conditions, and which may be deemed expedient by those framing the new state government.

To avoid misunderstanding, it may be proper to say that this proclamation, so far as it relates to state governments, has no reference to states wherein loyal state governments have all the while been maintained. And, for the same reason, it may be proper to further say, that whether members sent to congress from any state shall be admitted to seats constitutionally rests exclusively with the respective houses, and not to any extent with the Executive. And still further, that this proclamation is intended to present the people of the states wherein the national

authority has been suspended, and loyal state governments have been subverted, a mode in and by which the national authority and loyal state governments may be reëstablished within said states, or in any of them; and, while the mode presented is the best the Executive can suggest, with his present impressions, it must not be understood that no other possible mode would be acceptable.

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No. 36. Supplementary Enrolment Act

February 24, 1864

A BILL to amend the enrolment act of March 3, 1863 [No. 31], was introduced in the Senate, January 5, 1864, by Wilson of Massachusetts, and on the 18th passed with amendments, the vote being 30 to 10. With further amendments the bill passed the House, February 12, by a vote of 94 to 65. The Senate refused to accept the amendments of the House, and the bill received its final form from a conference committee. The discussions and proposed amendments related chiefly to the furnishing of substitutes, the penalty for resistance to the draft, and the enlistment of negroes.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XIII, 6–11. For the proceedings see the *House and Senate Journals*, 38th Cong., 1st Sess., and the *Cong. Globe*.

An Act to amend an Act entitled "An Act for enrolling and calling out the National Forces, and for other Purposes," approved March third, eighteen hundred and sixty-three.

Be it enacted . . ., That the President of the United States shall be authorized, whenever he shall deem it necessary, during the present war, to call for such number of men for the military service of the United States as the public exigencies may require.

SEC. 2. *And be it further enacted*, That the quota of each ward of a city, town, township, precinct, or election district, or of a county, where the county is not divided into wards, towns, townships, precincts, or election districts, shall be, as nearly as possible, in proportion to the number of men resident therein liable

to render military service, taking into account as far as practicable, the number which has been previously furnished therefrom; and in ascertaining and filling said quota there shall be taken into account the number of men who have heretofore entered the naval service of the United States, and whose names are borne upon the enrolment lists as already returned to the office of the provost-marshal general of the United States.

SEC. 3. [If quota is not filled by volunteers, draft to be made.]

SEC. 4. *And be it further enacted*, That any person enrolled under the provisions of the act . . . [of March 3, 1863] . . ., or who may be hereafter so enrolled, may furnish, at any time previous to the draft, an acceptable substitute, who is not liable to draft, nor at the time in the military or naval service of the United States, and such person so furnishing a substitute shall be exempt from draft during the time for which [such] substitute shall not be liable to draft, not exceeding the time for which such substitute shall have been accepted.

SEC. 5. *And be it further enacted*, That any person drafted into the military service of the United States may, before the time fixed for his appearance for duty at the draft rendezvous, furnish an acceptable substitute, subject to such rules and regulations as may be prescribed by the Secretary of War. That if such substitute is not liable to draft, the person furnishing him shall be exempt from draft during the time for which such substitute is not liable to draft, not exceeding the term for which he was drafted; and, if such substitute is liable to draft, the name of the person furnishing him shall again be placed on the roll, and shall be liable to draft on future calls, but not until the present enrolment shall be exhausted; and this exemption shall not exceed the term for which such person shall have been drafted. And any person now in the military or naval service of the United States, not physically disqualified, who has so served more than one year, and whose term of unexpired service shall not at the time of substitution exceed six months, may be employed as a substitute to serve in the troops of the State in which he enlisted;

and if any drafted person shall hereafter pay money for the procuration of a substitute, under the provisions of the act to which this is an amendment, such payment of money shall operate only to relieve such person from draft in filling that quota; and his name shall be retained on the roll in filling future quotas; but in no instance shall the exemption of any person, on account of his payment of commutation money for the procuration of a substitute, extend beyond one year; but at the end of one year, in every such case, the name of any person so exempted shall be enrolled again, if not before returned to the enrolment list under the provisions of this section.

SEC. 6. *And be it further enacted*, That boards of enrolment shall enroll all persons liable to draft under the provisions of this act, and the act to which this is an amendment, whose names may have been omitted by the proper enrolling officers; all persons who shall arrive at the age of twenty years before the draft; all aliens who shall declare their intentions to become citizens; all persons discharged from the military or naval service of the United States who have not been in such service two years during the present war; and all persons who have been exempted under the provisions of the second section of the act to which this is an amendment, but who are not exempted by the provisions of this act; and said boards of enrolment shall release and discharge from draft all persons who, between the time of the enrolment and the draft, shall have arrived at the age of forty-five years, and shall strike the names of such persons from the enrolment.

[Sections 7–9 relate to the enlistment of seamen.]

SEC. 10. *And be it further enacted*, That the following persons be and they are hereby exempted from enrolment and draft under the provisions of this act and of the act to which this is an amendment, to wit: Such as are rejected as physically or mentally unfit for the service, all persons actually in the military or naval service of the United States at the time of the draft, and all persons who have served in the military or naval service two years during the present war and been honorably discharged

therefrom; and no persons but such as are herein exempted shall be exempt.

SEC. 11. *And be it further enacted*, That section third of the "Act for enrolling and calling out the national forces, and for other purposes," approved March third, eighteen hundred and sixty-three, and so much of section ten of said act as provides for the separate enrolment of each class, be, and the same are hereby repealed; and it shall be the duty of the board of enrolment of each district to consolidate the two classes mentioned in the third section of said act.

SEC. 12. *And be it further enacted*, That any person who shall forcibly resist or oppose any enrolment, or who shall incite, counsel, encourage, or who shall conspire or confederate with any other person or persons forcibly to resist or oppose any such enrolment, or who shall aid or assist, or take any part in any forcible resistance or opposition thereto, or who shall assault, obstruct, hinder, impede, or threaten any officer or other person employed in making or in aiding to make such enrolment, or employed in the performance, or in aiding in the performance of any service in any way relating thereto, or in arresting or aiding to arrest any spy or deserter from the military service of the United States, shall, upon conviction thereof in any court competent to try the offence, be punished by a fine not exceeding five thousand dollars, or by imprisonment not exceeding five years, or by both of said punishments in the discretion of the court. And in cases where such assaulting, obstructing, hindering, or impeding shall produce the death of said officer or other person, the offender shall be deemed guilty of murder, and, upon conviction thereof upon indictment in the circuit court of the United States for the district within which the offence was committed, shall be punished with death. And nothing in this section contained shall be construed to relieve the party offending from liability, under proper indictment or process, for any crime against the laws of a state, committed by him while violating the provisions of this section.

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SEC. 17. *And be it further enacted*, That members of religious denominations, who shall by oath or affirmation declare that they are conscientiously opposed to the bearing of arms, and who are prohibited from doing so by the rules and articles of faith and practice of said religious denominations, shall, when drafted into the military service, be considered non-combatants, and shall be assigned by the Secretary of War to duty in the hospitals, or to the care of freedmen, or shall pay the sum of three hundred dollars to such person as the Secretary of War shall designate to receive it, to be applied to the benefit of the sick and wounded soldiers: *Provided*, That no person shall be entitled to the benefit of the provisions of this section unless his declaration of conscientious scruples against bearing arms shall be supported by satisfactory evidence that his deportment has been uniformly consistent with such declaration.

SEC. 18. *And be it further enacted*, That no person of foreign birth shall, on account of alienage, be exempted from enrolment or draft under the provisions of this act, or the act to which it is an amendment, who has at any time assumed the rights of a citizen by voting at any election held under authority of the laws of any state or territory, or of the United States, or who has held any office under such laws or any of them; but the fact that any such person of foreign birth has voted or held, or shall vote or hold, office as aforesaid, shall be taken as conclusive evidence that he is not entitled to exemption from military service on account of alienage.

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SEC. 24. *And be it further enacted*, That all able-bodied male colored persons, between the ages of twenty and forty-five years, resident in the United States, shall be enrolled according to the provisions of this act, and of the act to which this is an amendment, and form part of the national forces; and when a slave of a loyal master shall be drafted and mustered into the service of the United States, his master shall have a certificate thereof, and thereupon such slave shall be free; and the bounty of one hundred dollars, now payable by law for each drafted man, shall

be paid to the person to whom such drafted person was owing service or labor at the time of his muster into the service of the United States. The Secretary of War shall appoint a commission in each of the slave States represented in Congress, charged to award to each loyal person to whom a colored volunteer may owe service a just compensation, not exceeding three hundred dollars, for each such colored volunteer, payable out of the fund derived from commutations, and every such colored volunteer on being mustered into the service shall be free. And in all cases when men of color have been heretofore enlisted or have volunteered in the military service of the United States, all the provisions of this act, so far as the payment of bounty and compensation are provided, shall be equally applicable as to those who may be hereafter recruited. But men of color, drafted or enlisted, or who may volunteer into the military service, while they shall be credited on the quotas of the several states, or subdivisions of states, wherein they are respectively drafted, enlisted, or shall volunteer, shall not be assigned as state troops, but shall be mustered into regiments or companies as United States colored troops.[1]

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SEC. 27. *And be it further enacted,* That so much of the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March third, eighteen hundred and sixty-three, as may be inconsistent with the provisions of this act, is hereby repealed.

APPROVED, February 24, 1864.

No. 37. National Bank Act

June 3, 1864

THE beginning of the present national bank system is to be found in the act "to provide a national currency, secured by a pledge of United States

[1] A joint resolution of March 30, 1867, suspended further proceedings under this section.

stocks, and to provide for the circulation and redemption thereof," approved February 25, 1863. This act, however, proved defective, and the comptroller of the currency, in a report accompanying the annual report of the Secretary of the Treasury, December 10, 1863, made numerous suggestions for amendment. A bill with the same title as the existing act was reported in the House, March 14, by Hooper of Massachusetts, from the Committee of Ways and Means, and after protracted discussion was laid on the table by a vote of 90 to 44. Another bill with similar title was introduced by Hooper, April 11, and passed the House on the 18th by a vote of 80 to 66. A bill to the same effect had been introduced in the Senate, April 8, by John Sherman of Ohio, and referred to the Committee on Finance, which, on the 21st, reported the House bill with amendments. The amended bill passed the Senate, May 11, by a vote of 30 to 9. The House disagreed to the Senate amendments, and the bill received its final form from a conference committee, whose report was accepted by the houses June 1.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XIII, 99–118. Only the most important parts of the act are given below. The act has been many times amended; editions showing the various changes are issued from time to time by the comptroller of the currency. For the proceedings see the *House and Senate Journals*, 38th Cong., 1st Sess., and the *Cong. Globe*, where will be found the texts of all the important amendments proposed or adopted. A comparison of Hooper's first bill with the act of February 25 will be found in the *Globe*, March 23. See also Dewey, *Financial History*, 320–328; John Sherman, *Recollections*, chap. 13; McCulloch, *Men and Measures*, chap. 15; Blaine, *Twenty Years of Congress*, I, chap. 22.

An Act to provide a National Currency, secured by a Pledge of United States Bonds, and to provide for the Circulation and Redemption thereof.

Be it enacted . . ., That there shall be established in the treasury department a separate bureau, which shall be charged with the execution of this and all other laws that may be passed by congress respecting the issue and regulation of a national currency secured by United States bonds. The chief officer of the said bureau shall be denominated the comptroller of the currency, and shall be under the general direction of the Secretary of the Treasury. He shall be appointed by the President, on the recommendation of the Secretary of the Treasury, by and with the advice and consent of the Senate, and shall hold

his office for the term of five years unless sooner removed by the President, upon reasons to be communicated by him to the Senate; . . . [salary, clerks, bonds, etc.] . . . The comptroller and deputy-comptroller shall not, either directly or indirectly, be interested in any association issuing national currency under the provisions of this act.

SEC. 2. [Seal, &c. Certain papers under such seal to be evidence.]

SEC. 3. [Rooms, vaults, &c.]

SEC. 4. *And be it further enacted*, That the term "United States Bonds," as used in this act, shall be construed to mean all registered bonds now issued, or that may hereafter be issued, on the faith of the United States by the Secretary of the Treasury in pursuance of law.

SEC. 5. *And be it further enacted*, That associations for carrying on the business of banking may be formed by any number of persons, not less in any case than five, who shall enter into articles of association, which shall specify in general terms the object for which the association is formed, and may contain any other provisions, not inconsistent with the provisions of this act, which the association may see fit to adopt for the regulation of the business of the association and the conduct of its affairs, which said articles shall be signed by the persons uniting to form the association, and a copy of them forwarded to the comptroller of the currency, to be filed and preserved in his office.

SEC. 6. *And be it further enacted*, That the persons uniting to form such an association shall, under their hands, make an organization certificate, which shall specify —

First. The name assumed by such association, which name shall be subject to the approval of the comptroller.

Second. The place where its operations of discount and deposit are to be carried on, designating the state, territory, or district, and also the particular county and city, town, or village.

Third. The amount of its capital stock, and the number of shares into which the same shall be divided.

Fourth. The names and places of residence of the shareholders, and the number of shares held by each of them.

Fifth. A declaration that said certificate is made to enable such persons to avail themselves of the advantages of this act.

[Certificate to be acknowledged. Copies under seal to be evidence.]

SEC. 7. *And be it further enacted*, That no association shall be organized under this act, with a less capital than one hundred thousand dollars, nor in a city whose population exceeds fifty thousand persons, with a less capital than two hundred thousand dollars: *Provided*, That banks with a capital of not less than fifty thousand dollars may, with the approval of the Secretary of the Treasury, be organized in any place the population of which does not exceed six thousand inhabitants.[1]

SEC. 8. *And be it further enacted*, That every association formed pursuant to the provisions of this act shall, from the date of the execution of its organization certificate, be a body corporate, but shall transact no business except such as may be incidental to its organization and necessarily preliminary, until authorized by the comptroller of the currency to commence the business of banking. Such association shall have power to adopt a corporate seal, and shall have succession by the name designated in its organization certificate, for the period of twenty years from its organization, unless sooner dissolved according to the provisions of its articles of association, or by the act of its shareholders owning two thirds of its stock, or unless the franchise shall be forfeited by a violation of this act; by such name it may make contracts, sue and be sued, complain and defend, in any court of law and equity as fully as natural persons; it may elect or appoint directors, and by its board of directors appoint a president, vice-president, cashier, and other officers, define their duties, require bonds of them and fix the penalty thereof, dismiss said officers or any of them at pleasure, and appoint others to fill their places, and exercise under this act all such incidental powers as shall be necessary to carry on

[1] See act of March 14, 1900, section 10.

the business of banking by discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt; by receiving deposits; by buying and selling exchange, coin, and bullion; by loaning money on personal security; by obtaining, issuing, and circulating notes according to the provisions of this act; and its board of directors shall also have power to define and regulate by by-laws, not inconsistent with the provisions of this act, the manner in which its stock shall be transferred, its directors elected or appointed, its officers appointed, its property transferred, its general business conducted, and all the privileges granted by this act to associations organized under it shall be exercised and enjoyed; and its usual business shall be transacted at an office or banking house located in the place specified in its organization certificate.

SEC. 9. *And be it further enacted*, That the affairs of every association shall be managed by not less than five directors, one of whom shall be the president. Every director shall, during his whole term of service, be a citizen of the United States; and at least three fourths of the directors shall have resided in the state, territory, or district in which such association is located one year next preceding their election as directors, and be residents of the same during their continuance in office. Each director shall own, in his own right, at least ten shares of the capital stock of the association of which he is a director. . . . [Oath.] . . .

SEC. 10. [Term of office of directors; elections; vacancies, how filled.]

SEC. 11. *And be it further enacted*, That in all elections of directors, and in deciding all questions at meetings of shareholders, each shareholder shall be entitled to one vote on each share of stock held by him. Shareholders may vote by proxies duly authorized in writing; but no officer, clerk, teller, or bookkeeper of such association shall act as proxy; and no shareholder whose liability is past due and unpaid shall be allowed to vote.

SEC. 12. *And be it further enacted*, That the capital stock of

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any association formed under this act shall be divided into shares of one hundred dollars each, and be deemed personal property and transferable on the books of the association in such manner as may be prescribed in the by-laws or articles of association; and every person becoming a shareholder by such transfer shall, in proportion to his shares, succeed to all the rights and liabilities of the prior holder of such shares, and no change shall be made in the articles of association by which the rights, remedies, or security of the existing creditors of the association shall be impaired. The shareholders of each association formed under the provisions of this act, and of each existing bank or banking association that may accept the provisions of this act, shall be held individually responsible, equally and ratably, and not one for another, for all contracts, debts, and engagements of such association to the extent of the amount of their stock therein at the par value thereof, in addition to the amount invested in such shares; except that shareholders of any banking association now existing under state laws, having not less than five millions of dollars of capital actually paid in, and a surplus of twenty per centum on hand, both to be determined by the comptroller of the currency, shall be liable only to the amount invested in their shares;[1] and such surplus of twenty per centum shall be kept undiminished, and be in addition to the surplus provided for in this act; and if at any time there shall be a deficiency in said surplus of twenty per centum, the said banking association shall not pay any dividends to its shareholders until such deficiency shall be made good; and in case of such deficiency, the comptroller of the currency may compel said banking association to close its business and wind up its affairs under the provisions of this act. And the comptroller shall have authority to withhold from an association his certificate authorizing the commencement of business, whenever he shall have reason to suppose that the shareholders thereof have formed the same for any other than the legitimate objects contemplated by this act.

[1] This exception was designed to include the Bank of Commerce of New York.

SEC. 13. *And be it further enacted*, That it shall be lawful for any association formed under this act, by its articles of association, to provide for an increase of its capital from time to time, as may be deemed expedient, subject to the limitations of this act: *Provided*, That the maximum of such increase in the articles of association shall be determined by the comptroller of the currency; and no increase of capital shall be valid until the whole amount of such increase shall be paid in, and notice thereof shall have been transmitted to the comptroller of the currency, and his certificate obtained specifying the amount of such increase of capital stock, with his approval thereof, and that it has been duly paid in as part of the capital of such association. And every association shall have power, by the vote of shareholders owning two thirds of its capital stock, to reduce the capital of such association to any sum not below the amount required by this act, in the formation of associations: *Provided*, That by no such reduction shall its capital be brought below the amount required by this act for its outstanding circulation, nor shall any such reduction be made until the amount of the proposed reduction has been reported to the comptroller of the currency and his approval thereof obtained.

SEC. 14. *And be it further enacted*, That at least fifty per centum of the capital stock of every association shall be paid in before it shall be authorized to commence business; and the remainder of the capital stock of such association shall be paid in instalments of at least ten per centum each on the whole amount of the capital as frequently as one instalment at the end of each succeeding month from the time it shall be authorized by the comptroller to commence business; and the payment of each instalment shall be certified to the comptroller, under oath, by the president or cashier of the association.

SEC. 15. [Proceedings if shareholder fails to pay instalments.]

SEC. 16. *And be it further enacted*, That every association, after having complied with the provisions of this act, preliminary to the commencement of banking business under its provisions, and before it shall be authorized to commence business,

shall transfer and deliver to the treasurer of the United States any United States registered bonds bearing interest to an amount not less than thirty thousand dollars nor less than one third of the capital stock paid in, which bonds shall be deposited with the treasurer of the United States and by him safely kept in his office until the same shall be otherwise disposed of, in pursuance of the provisions of this act; and the Secretary of the Treasury is hereby authorized to receive and cancel any United States coupon bonds, and to issue in lieu thereof registered bonds of like amount, bearing a like rate of interest, and having the same time to run; and the deposit of bonds shall be, by every association, increased as its capital may be paid up or increased, so that every association shall at all times have on deposit with the treasurer registered United States bonds to the amount of at least one third of its capital stock actually paid in: *Provided*, That nothing in this section shall prevent an association that may desire to reduce its capital or to close up its business and dissolve its organization from taking up its bonds upon returning to the comptroller its circulating notes in the proportion hereinafter named in this act, nor from taking up any excess of bonds beyond one third of its capital stock and upon which no circulating notes have been delivered.

SEC. 17. *And be it further enacted*, That whenever a certificate shall have been transmitted to the comptroller of the currency, as provided in this act, and the association transmitting the same shall notify the comptroller that at least fifty per centum of its capital stock has been paid in as aforesaid, and that such association has complied with all the provisions of this act as required to be complied with before such association shall be authorized to commence the business of banking, the comptroller shall examine into the condition of such association, ascertain especially the amount of money paid in on account of its capital, the name and place of residence of each of the directors of such association, and the amount of the capital stock of which each is the bona fide owner, and generally whether such association has complied with all the requirements of this act to entitle it to

engage in the business of banking; and shall cause to be made and attested by the oaths of a majority of the directors and by the president or cashier of such association, a statement of all the facts necessary to enable the comptroller to determine whether such association is lawfully entitled to commence the business of banking under this act.

SEC. 18. [When association is found entitled to commence business, comptroller to give certificate.]

SEC. 19. [Transfers of bonds by association to be made to the treasurer in trust; comptroller to keep transfer book, &c.]

SEC. 20. [Transfers to be countersigned and entered by comptroller.]

SEC. 21. *And be it further enacted*, That upon the transfer and delivery of bonds to the treasurer, as provided in the foregoing section, the association making the same shall be entitled to receive from the comptroller of the currency circulating notes of different denominations, in blank, registered and countersigned as hereinafter provided, equal in amount to ninety per centum of the current market value of the United States bonds so transferred and delivered, but not exceeding ninety per centum of the amount of said bonds at the par value thereof, if bearing interest at a rate not less than five per centum per annum;[1] and at no time shall the total amount of such notes,

[1] An act of March 3, 1865, amended section 21 by adding at this point, in lieu of the concluding clause, the following: "and the amount of said circulating notes to be furnished to each association shall be in proportion to its paid-up capital as follows, and no more: To each association whose capital shall not exceed five hundred thousand dollars, ninety per centum of such capital; to each association whose capital exceeds five hundred thousand dollars, but does not exceed one million dollars, eighty per centum of such capital; to each association whose capital exceeds one million dollars, but does not exceed three millions of dollars, seventy-five per centum of such capital; to each association whose capital exceeds three millions of dollars, sixty per cent. of such capital. And that one hundred and fifty millions of dollars of the entire amount of circulating notes authorized to be issued shall be apportioned to associations in the states, in the District of Columbia, and in the territories, according to representative population, and the remainder shall be apportioned by the Secretary of the Treasury among associations formed in the several states, in the District of Columbia, and in the territories, having due regard to the existing banking capital, resources, and business of such states, district, and territories."

issued to any such association, exceed the amount at such time actually paid in of its capital stock.

SEC. 22. *And be it further enacted*, That the entire amount of notes for circulation to be issued under this act shall not exceed three hundred millions of dollars. In order to furnish suitable notes for circulation, the comptroller of the currency is hereby authorized and required, under the direction of the Secretary of the Treasury, to cause plates and dies to be engraved, in the best manner to guard against counterfeiting and fraudulent alterations, and to have printed therefrom, and numbered, such quantity of circulating notes, in blank, of the denominations of one dollar, two dollars, three dollars, five dollars, ten dollars, twenty dollars, fifty dollars, one hundred dollars, five hundred dollars, and one thousand dollars, as may be required to supply, under this act, the associations entitled to receive the same; which notes shall express upon their face that they are secured by United States bonds, deposited with the treasurer of the United States by the written or engraved signatures of the treasurer and register, and by the imprint of the seal of the treasury; and shall also express upon their face the promise of the association receiving the same to pay on demand, attested by the signatures of the president or vice-president and cashier. And the said notes shall bear such devices and such other statements, and shall be in such form, as the Secretary of the Treasury shall, by regulation, direct: *Provided*, That not more than one sixth part of the notes furnished to an association shall be of a less denomination than five dollars, and that after specie payments shall be resumed no association shall be furnished with notes of a less denomination than five dollars.

SEC. 23. *And be it further enacted*, That after any such association shall have caused its promise to pay such notes on demand to be signed by the president or vice-president and cashier thereof, in such manner as to make them obligatory promissory notes, payable on demand, at its place of business, such association is hereby authorized to issue and circulate the same as money; and the same shall be received at par in all

parts of the United States in payment of taxes, excises, public lands, and all other dues to the United States, except for duties on imports; and also for all salaries and other debts and demands owing by the United States to individuals, corporations, and associations within the United States, except interest on the public debt, and in redemption of the national currency. And no such association shall issue post notes or any other notes to circulate as money than such as are authorized by the foregoing provisions of this act.[1]

SEC. 24. [Worn-out and mutilated notes to be redeemed.]

SEC. 25. [Associations to examine annually their bonds deposited, and make certificate.]

SEC. 26. *And be it further enacted*, That the bonds transferred to and deposited with the treasurer of the United States, as hereinbefore provided, by any banking association for the security of its circulating notes, shall be held exclusively for that purpose, until such notes shall be redeemed, except as provided in this act; but the comptroller of the currency shall give to any such banking association powers of attorney to receive and appropriate to its own use the interest on the bonds which it shall have so transferred to the treasurer; but such powers shall become inoperative whenever such banking association shall fail to redeem its circulating notes as aforesaid. Whenever the market or cash value of any bonds deposited with the treasurer of the United States, as aforesaid, shall be reduced below the amount of the circulation issued for the same, the comptroller of the currency is hereby authorized to demand and receive the amount of such depreciation in other United States bonds at cash value, or in money, from the association receiving said bills, to be deposited with the treasurer of the United States as long as such depreciation continues. And said comptroller, upon the terms prescribed by the Secretary of the Treasury, may permit an exchange to be made of any of the bonds deposited with the treasurer by an association for other bonds of the

[1] As to State taxation of national bank currency and United States notes, see act of August 13, 1894.

United States authorized by this act to be received as security for circulating notes, if he shall be of opinion that such an exchange can be made without prejudice to the United States, and he may direct the return of any of said bonds to the banking association which transferred the same, in sums of not less than one thousand dollars, upon the surrender to him and the cancellation of a proportionate amount of such circulating notes: *Provided*, That the remaining bonds which shall have been transferred by the banking association offering to surrender circulating notes shall be equal to the amount required for the circulating notes not surrendered by such banking association, and that the amount of bonds in the hands of the treasurer shall not be diminished below the amount required to be kept on deposit with him by this act: *And provided*, That there shall have been no failure by such association to redeem its circulating notes, and no other violation by such association of the provisions of this act, and that the market or cash value of the remaining bonds shall not be below the amount required for the circulation issued for the same.

Sec. 27. [The countersigning and delivery of circulating notes, except as permitted by this act, unlawful.]

Sec. 28. *And be it further enacted*, That it shall be lawful for any such association to purchase, hold, and convey real estate as follows:—

First. Such as shall be necessary for its immediate accommodation in the transaction of its business.

Second. Such as shall be mortgaged to it in good faith by way of security for debts previously contracted.

Third. Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

Fourth. Such as it shall purchase at sales under judgments, decrees, or mortgages held by such association, or shall purchase to secure debts due to said association.

Such association shall not purchase or hold real estate in any other case or for any other purpose than as specified in this section. Nor shall it hold the possession of any real estate

under mortgage, or hold the title and possession of any real estate purchased to secure any debts due to it for a longer period than five years.

Sec. 29. *And be it further enacted*, That the total liabilities to any association, of any person, or of any company, corporation, or firm for money borrowed, including in the liabilities of a company or firm the liabilities of the several members thereof, shall at no time exceed one tenth part of the amount of the capital stock of such association actually paid in: *Provided*, That the discount of bona fide bills of exchange drawn against actually existing values, and the discount of commercial or business paper actually owned by the person or persons, corporation, or firm negotiating the same shall not be considered as money borrowed.

Sec. 30. *And be it further enacted*, That every association may take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidences of debt, interest at the rate allowed by the laws of the state or territory where the bank is located, and no more, except that where by the laws of any state a different rate is limited for banks of issue organized under state laws, the rate so limited shall be allowed for associations organized in any such state under this act. And when no rate is fixed by the laws of the state or territory, the bank may take, receive, reserve, or charge a rate not exceeding seven per centum, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run. . . . [Penalty for taking greater interest.] . . .

Sec. 31. *And be it further enacted*, That every association in the cities hereinafter named shall, at all times, have on hand, in lawful money of the United States, an amount equal to at least twenty-five per centum of the aggregate amount of its notes in circulation and its deposits; and every other association shall, at all times, have on hand, in lawful money of the United States, an amount equal to at least fifteen per centum of the aggregate amount of its notes in circulation, and of its deposits. And

whenever the lawful money of any association in any of the cities hereinafter named shall be below the amount of twenty-five per centum of its circulation and deposits, and whenever the lawful money of any other association shall be below fifteen per centum of its circulation and deposits, such association shall not increase its liabilities by making any new loans or discounts otherwise than by discounting or purchasing bills of exchange payable at sight, nor make any dividend of its profits until the required proportion between the aggregate amount of its outstanding notes of circulation and deposits and its lawful money of the United States shall be restored: *Provided*, That three fifths of said fifteen per centum may consist of balances due to an association available for the redemption of its circulating notes from associations approved by the comptroller of the currency, organized under this act, in the cities of Saint Louis, Louisville, Chicago, Detroit, Milwaukee, New Orleans, Cincinnati, Cleveland, Pittsburg, Baltimore, Philadelphia, Boston, New York, Albany, Leavenworth, San Francisco, and Washington City:[1] *Provided, also*, That clearing-house certificates, representing specie or lawful money specially deposited for the purpose of any clearing-house association, shall be deemed to be lawful money in the possession of any association belonging to such clearing-house holding and owning such certificate, and shall be considered to be a part of the lawful money which such association is required to have under the foregoing provisions of this section: *Provided*, That the cities of Charleston and Richmond may be added to the list of cities in the national associations of which other associations may keep three fifths of their lawful money, whenever, in the opinion of the comptroller of the currency, the condition of the southern states will warrant it. And it shall be competent for the comptroller of the currency to notify any association, whose lawful money reserve as aforesaid shall be below the amount to be kept on hand as aforesaid, to make good such reserve; and if such association shall fail for thirty days thereafter so to make good its reserve of lawful

[1] See act of March 3, 1887, chap. 378.

money of the United States, the comptroller may, with the concurrence of the Secretary of the Treasury, appoint a receiver to wind up the business of such association, as provided in this act.

SEC. 32. *And be it further enacted*, That each association organized in any of the cities named in the foregoing section shall select, subject to the approval of the comptroller of the currency, an association in the city of New York, at which it will redeem its circulating notes at par. And each of such associations may keep one half of its lawful money reserve in cash deposits in the city of New York. And each association not organized within the cities named in the preceding section shall select, subject to the approval of the comptroller of the currency, an association in either of the cities named in the preceding section at which it will redeem its circulating notes at par, and the comptroller shall give public notice of the names of the associations so selected at which redemptions are to be made by the respective associations, and of any change that may be made of the association at which the notes of any association are redeemed. If any association shall fail either to make the selection or to redeem its notes as aforesaid, the comptroller of the currency may, upon receiving satisfactory evidence thereof, appoint a receiver, in the manner provided for in this act, to wind up its affairs: *Provided*, That nothing in this section shall relieve any association from its liability to redeem its circulating notes at its own counter, at par, in lawful money, on demand: *And provided, further*, That every association formed or existing under the provisions of this act shall take and receive at par, for any debt or liability to said association, any and all notes or bills issued by any association existing under and by virtue of this act.

SEC. 33. *And be it further enacted*, That the directors of any association may, semi-annually, each year, declare a dividend of so much of the net profits of the association as they shall judge expedient; but each association shall, before the declaration of a dividend, carry one tenth part of its net profits of the preced-

ing half year to its surplus fund until the same shall amount to twenty per centum of its capital stock.

Sec. 34. [Associations to report to comptroller monthly and quarterly.]

Sec. 35. *And be it further enacted*, That no association shall make any loan or discount on the security of the shares of its own capital stock, nor be the purchaser or holder of any such shares, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith; and stock so purchased or acquired shall, within six months from the time of its purchase, be sold or disposed of at public or private sale, in default of which a receiver may be appointed to close up the business of the association, according to the provisions of this act.

Sec. 36. *And be it further enacted*, That no association shall at any time be indebted, or in any way liable, to an amount exceeding the amount of its capital stock at such time actually paid in and remaining undiminished by losses or otherwise, except on the following accounts, that is to say: —

First. On account of its notes of circulation.

Second. On account of moneys deposited with, or collected by, such association.

Third. On account of bills of exchange or drafts drawn against money actually on deposit to the credit of such association, or due thereto.

Fourth. On account of liabilities to its stockholders for dividends and reserved profits.

Sec. 37. *And be it further enacted*, That no association shall, either directly or indirectly, pledge or hypothecate any of its notes of circulation, for the purpose of procuring money to be paid in on its capital stock, or to be used in its banking operations, or otherwise; nor shall any association use its circulating notes, or any part thereof, in any manner or form, to create or increase its capital stock.

Sec. 38. *And be it further enacted*, That no association, or any member thereof, shall, during the time it shall continue its bank-

ing operations, withdraw, or permit to be withdrawn, either in form of dividends or otherwise, any portion of its capital. And if losses shall at any time have been sustained by any such association equal to or exceeding its undivided profits then on hand, no dividend shall be made; and no dividend shall ever be made by any association, while it shall continue its banking operations, to an amount greater than its net profits then on hand, deducting therefrom its losses and bad debts. And all debts due to any association, on which interest is past due and unpaid for a period of six months, unless the same shall be well secured, and shall be in process of collection, shall be considered bad debts within the meaning of this act: *Provided*, That nothing in this section shall prevent the reduction of the capital stock of the association under the thirteenth section of this act.

SEC. 39. *And be it further enacted*, That no association shall at any time pay out on loans or discounts, or in purchasing drafts or bills of exchange, or in payment of deposits, or in any other mode pay or put in circulation the notes of any bank or banking association which shall not, at any such time, be receivable, at par, on deposit and in payment of debts by the association so paying out or circulating such notes; nor shall it knowingly pay out or put in circulation any notes issued by any bank or banking association which at the time of such paying out or putting in circulation is not redeeming its circulating notes in lawful money of the United States.

SEC. 40. [List of names and residences of shareholders to be kept.]

SEC. 41. *And be it further enacted*, That the plates and special dies to be procured by the comptroller of the currency for the printing of such circulating notes shall remain under his control and direction, and the expenses necessarily incurred in executing the provisions of this act respecting the procuring of such notes, and all other expenses of the bureau, shall be paid out of the proceeds of the taxes or duties now or hereafter to be assessed on the circulation, and collected from associations organized under this act. And in lieu of all existing taxes, every asso-

ciation shall pay to the treasurer of the United States, in the months of January and July, a duty of one half of one per centum each half year from and after the first day of January, eighteen hundred and sixty-four, upon the average amount of its notes in circulation, and a duty of one quarter of one per centum each half year upon the average amount of its deposits, and a duty of one quarter of one per centum each half year, as aforesaid, on the average amount of its capital stock beyond the amount invested in United States bonds; and in case of default in the payment thereof by any association, the duties aforesaid may be collected in the manner provided for the collection of United States duties of other corporations, or the treasurer may reserve the amount of said duties out of the interest, as it may become due, on the bonds deposited with him by such defaulting association. . . . [Return of circulation, &c., to be made.] . . . *Provided*, That nothing in this act shall be construed to prevent all the shares in any of the said associations, held by any person or body corporate, from being included in the valuation of the personal property of such person or corporation in the assessment of taxes imposed by or under state authority at the place where such bank is located, and not elsewhere,[1] but not at a greater rate than is assessed upon other moneyed capital in the hands of individual citizens of such state: *Provided, further*, That the tax so imposed under the laws of any state upon the shares of any of the associations authorized by this act shall not exceed the rate imposed upon the shares in any of the banks organized under authority of the state where such association is located: *Provided, also*, That nothing in this act shall exempt the real estate of associations from either state, county, or municipal taxes to the same extent, according to its value, as other real estate is taxed.

[Sections 42 and 43. How associations may be closed.]

Sec. 44. *And be it further enacted*, That any bank incorporated by special law, or any banking institution organized under a general law of any state, may, by authority of this act, become a

[1] See act of February 10, 1868.

national association under its provisions, by the name prescribed in its organization certificate; and in such case the articles of association and the organization certificate required by this act may be executed by a majority of the directors of the bank or banking institution; and said certificate shall declare that the owners of two thirds of the capital stock have authorized the directors to make such certificate and to change and convert the said bank or banking institution into a national association under this act. And a majority of the directors, after executing said articles of association and organization certificate, shall have power to execute all other papers, and to do whatever may be required to make its organization perfect and complete as a national association. The shares of any such bank may continue to be for the same amount each as they were before said conversion, and the directors aforesaid may be the directors of the association until others are elected or appointed in accordance with the provisions of this act; and any state bank which is a stockholder in any other bank, by authority of state laws, may continue to hold its stock, although either bank, or both, may be organized under and have accepted the provisions of this act. When the comptroller shall give to such association a certificate, under his hand and official seal, that the provisions of this act have been complied with, and that it is authorized to commence the business of banking under it, the association shall have the same powers and privileges, and shall be subject to the same duties, responsibilities, and rules, in all respects as are prescribed in this act for other associations organized under it, and shall be held and regarded as an association under this act: *Provided, however*, That no such association shall have a less capital than the amount prescribed for banking associations under this act.[1]

Sec. 45. *And be it further enacted*, That all associations under this act, when designated for that purpose by the Secretary of the Treasury, shall be depositaries of public money, except receipts from customs, under such regulations as may be pre-

[1] See act of February 14, 1880.

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scribed by the Secretary; and they may also be employed as financial agents of the government; and they shall perform all such reasonable duties, as depositaries of public moneys and financial agents of the government, as may be required of them. And the Secretary of the Treasury shall require of the associations thus designated satisfactory security, by the deposit of United States bonds and otherwise, for the safe-keeping and prompt payment of the public money deposited with them, and for the faithful performance of their duties as financial agents of the government: *Provided*, That every association which shall be selected and designated as receiver or depositary of the public money shall take and receive at par all of the national currency bills, by whatever association issued, which have been paid in to the government for internal revenue, or for loans or stocks.

Sec. 46. [If associations fail to redeem their circulation, the notes may be protested, &c.]

[Sections 47–51. Procedure in case of associations failing to redeem notes, &c.]

Sec. 52. [Transfers, assignments, &c., in contemplation of insolvency, &c., to be void.]

Sec. 53. [Penalty upon directors for violations of this act.]

Sec. 54. [Comptroller may appoint person to examine the affairs of any association.]

[Sections 55–57. Penalty and procedure in case of embezzlement, &c.]

[Sections 58–60. Penalties for mutilating notes to make them unfit for reissue, for counterfeiting notes, for engraving plates, for forging notes, &c.]

Sec. 61. [Comptroller to report annually to congress.]

Sec. 62. [Repeal of act of February 25, 1863.]

Sec. 63. *And be it further enacted*, That persons holding stock as executors, administrators, guardians, and trustees, shall not be personally subject to any liabilities as stockholders; but the estates and funds in their hands shall be liable in like manner and to the same extent as the testator, intestate, ward, or

person interested in said trust-funds would be if they were respectively living and competent to act and hold the stock in their own names.

SEC. 64. *And be it further enacted*, That congress may at any time amend, alter, or repeal this act.

APPROVED, June 3, 1864.

No. 38. Repeal of the Fugitive Slave Law

June 28, 1864

THE agitation for a repeal of the fugitive slave law of 1850 may be said to have begun with the passage of the act. Bills and resolutions relating to the subject were frequently introduced in Congress, but for the most part failed of consideration. A repeal bill was considered by the Senate April 19, 1864, but not further acted upon. June 13, however, a bill in the terms of the act following, originally introduced by Spalding of Ohio, passed the House by a vote of 86 to 60. A proposal in the Senate to repeal only the act of 1850 was rejected, the vote being 17 to 22, and June 22 the House bill passed by a vote of 27 to 12.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XIII, 200. For the proceedings see the *House and Senate Journals*, 38th Cong., 1st Sess., and the *Cong. Globe*. The principal propositions for repeal are collected in McPherson, *Rebellion*, 234–237. For the report of the Senate committee, February 29, see *Senate Report 24*, 38th Cong., 1st Sess. On the general subject of fugitive slave laws see McDougall, *Fugitive Slaves*.

An Act to repeal the Fugitive Slave Act of eighteen hundred and fifty, and all Acts and Parts of Acts for the Rendition of Fugitive Slaves.

Be it enacted . . ., That sections three and four of an act entitled "An act respecting fugitives from justice and persons escaping from the service of their masters," approved February twelve, seventeen hundred and ninety-three, and an act entitled "An act to amend, and supplementary to, the act entitled 'An act respecting fugitives from justice and persons escaping from the service of their masters,' passed February twelve, seventeen hundred and ninety-three," passed September [eighteen], eighteen hundred and fifty, be, and the same are hereby, repealed.

APPROVED, June 28, 1864.

No. 39. Intercourse with Insurrectionary States

July 2, 1864

A BILL further to regulate commercial intercourse with the insurrectionary States was introduced in the Senate, April 14, 1864, by Zachariah Chandler of Michigan, by unanimous consent, and referred to the Committee on Commerce. The bill was reported with amendments May 28, and passed the Senate, June 28, by a vote of 27 to 13. The House passed the bill with further amendments July 2, the concurrence of the Senate being given the same day.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XIII, 375–378. For the proceedings see the *House and Senate Journals*, 38th Cong., 1st Sess., and the *Cong. Globe*. The text of the bill as passed by the Senate is in the *Globe* for June 28.

An Act in addition to the several Acts concerning Commercial Intercourse between loyal and insurrectionary States, and to provide for the Collection of captured and abandoned Property, and the Prevention of Frauds in States declared in Insurrection.

Be it enacted . . ., That sales of captured and abandoned property under the act approved March twelve, eighteen hundred and sixty-three, may be made at such places, in states declared in insurrection, as may be designated by the Secretary of the Treasury, as well as at other places now authorized by said act.

SEC. 2. *And be it further enacted*, That, in addition to the captured and abandoned property to be received, collected, and disposed of, as provided in said act, the said agents shall take charge of and lease, for periods not exceeding twelve months, the abandoned lands, houses, and tenements within the districts therein named, and shall also provide, in such leases or otherwise, for the employment and general welfare of all persons within the lines of national military occupation within said insurrectionary states formerly held as slaves, who are or shall become free. Property, real or personal, shall be regarded as abandoned when the lawful owner thereof shall be voluntarily

absent therefrom, and engaged, either in arms or otherwise, in aiding or encouraging the rebellion.

SEC. 3. [Moneys from leases and sales to be paid into the treasury. Act of March 12, 1863, section 1, extended to include property mentioned in acts of July 13, 1861, and July 17, 1862.]

SEC. 4. *And be it further enacted*, That the prohibitions and provisions of the act approved July thirteen, eighteen hundred and sixty-one, and of the acts amendatory or supplementary thereto, shall apply to all commercial intercourse by and between persons residing or being within districts within the present or future lines of national military occupation in the states or parts of states declared in insurrection, whether with each other or with persons residing or being within districts declared in insurrection and not within those lines; and that all persons within the United States, not native or naturalized citizens thereof, shall be subject to the same prohibitions, in all commercial intercourse with inhabitants of states or parts of states declared in insurrection, as citizens of loyal states are subject to under the said act or acts.

SEC. 5. *And be it further enacted*, That whenever any part of a loyal state shall be under the control of insurgents, or shall be in dangerous proximity to places under their control, all commercial intercourse therein and therewith shall be subject to the same prohibitions and conditions as are created by the said acts, as to such intercourse between loyal and insurrectionary states, for such time and to such extent as shall from time to time become necessary to protect the public interests, and be directed by the Secretary of the Treasury, with the approval of the President.

SEC. 6. [Mode of distribution of fines, forfeitures, &c. Repeal of parts of acts of May 20, 1862, section 5, and March 12, 1863, section 4.]

SEC. 7. *And be it further enacted*, That no property seized or taken upon any of the inland waters of the United States by the naval forces thereof, shall be regarded as maritime prize; but all property so seized or taken shall be promptly delivered to

the proper officers of the courts, or as provided in this act and in the said act approved March twelve, eighteen hundred and sixty-three.

Sec. 8. *And be it further enacted*, That it shall be lawful for the Secretary of the Treasury, with the approval of the President, to authorize agents to purchase for the United States any products of states declared in insurrection, at such places therein as shall be designated by him, at such prices as shall be agreed on with the seller, not exceeding the market value thereof at the place of delivery, nor exceeding three fourths of the market-value thereof in the city of New York at the latest quotations known to the agent purchasing: *Provided*, That no part of the purchase-money for any products so purchased shall be paid, or agreed to be paid, out of any other fund than that arising from property sold as captured or abandoned, or purchased and sold under the provisions of this act. All property so purchased shall be forwarded for sale at such place or places as shall be designated by the Secretary of the Treasury, and the moneys arising therefrom, after payment of the purchase-money and the other expenses connected therewith, shall be paid into the treasury of the United States. . . .

Sec. 9. *And be it further enacted*, That so much of section five of the act of thirteenth of July, eighteen hundred and sixty-one, aforesaid, as authorizes the President, in his discretion, to license or permit commercial relations in any state or section the inhabitants of which are declared in a state of insurrection, is hereby repealed, except so far as may be necessary to authorize supplying the necessities of loyal persons residing in insurrectionary states, within the lines of actual occupation by the military forces of the United States, as indicated by published order of the commanding general of the department or district so occupied; and, also, except so far as may be necessary to authorize persons residing within such lines to bring or send to market in the loyal states any products which they shall have produced with their own labor or the labor of freedmen, or others employed and paid by them, pursuant to rules relating thereto, which may be

established under proper authority. And no goods, wares, or merchandise shall be taken into a state declared in insurrection, or transported therein, except to and from such places and to such monthly amounts as shall have been previously agreed upon in writing by the commanding general of the department in which such places are situated and an officer designated by the Secretary of the Treasury for that purpose.

SEC. 10. *And be it further enacted*, That all officers and privates of the regular and volunteer forces of the United States, and all officers, sailors, and marines in the naval service, are hereby prohibited from buying or selling, trading, or in any way dealing in the kind or description of property mentioned in this act, and the act to which this is in addition, whereby to receive or expect any profit, benefit, or advantage to himself, or any other person, directly or indirectly connected with him; and it shall be the duty of such officer, private, sailor, or marine, when such property shall come into his possession or custody, or within his control, to give notice thereof to some agent, appointed by virtue of this act, and to turn the same over to such agent without delay: . . . [penalty for violation, &c.]

SEC. 11. *And be it further enacted*, That the Secretary of the Treasury, with the approval of the President, shall make such rules and regulations as are necessary to secure the proper and economical execution of the provisions of this act, and shall defray all expenses of such execution from the proceeds of fees imposed by said rules and regulations, of sales of captured and abandoned property, and of sales hereinbefore authorized.

APPROVED, July 2, 1864.

No. 40. Enrolment Act

July 4, 1864

IN a communication of June 7, 1864, the Secretary of War urged the repeal of the $300 commutation clause of the Enrolment Act of March 3, 1863, on the ground that under it the draft brought money instead of men. A bill

to repeal the clause was reported by the Senate Committee on Military Affairs the next day, and on the 23d, by a vote of 24 to 7, the bill in amended form passed. In the House a bill to amend the act of 1863 was reported June 21. A motion to reject the bill resulting in a tie, the speaker voted in the negative. The first section, repealing the commutation clause, was stricken out, the vote being 100 to 50. On the 28th, after the rejection of numerous amendments and substitutes, the bill passed, the vote being 82 to 77, 23 not voting. Throughout the proceedings in the House there was strong opposition. The Senate incorporated its own bill of June 23, together with an amendment offered by Sherman providing for an income tax to pay the cost of bounties and drafts. The bill thus amended passed the Senate, June 29, by a vote of 27 to 7. The next day, on motion of Thaddeus Stevens, the House returned the bill to the Senate on the ground that the amendment proposing an income tax was unconstitutional, and a violation of the privileges of the House. The Senate struck out the amendment, but refused to recede from a further amendment regarding the enlistment of negroes. The bill went to a conference committee, whose report, July 2, was rejected by the Senate by a vote of 16 to 18. A second conference report was agreed to in the Senate by a vote of 18 to 17, and in the House by a vote of 66 to 55. July 18 a call for 500,000 men was issued under the act.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XIII, 379, 380. For the proceedings see the *House and Senate Journals*, 38th Cong., 1st Sess., and the *Cong. Globe*. The letter of the Secretary of War is in McPherson, *Rebellion*, 263, note. Extracts from discussions on the constitutionality of the act are given in McPherson, *ibid.*, 272–274.

An Act further to regulate and provide for the enrolling and calling out the National Forces, and for other Purposes.

Be it enacted . . ., That the President of the United States may, at his discretion, at any time hereafter call for any number of men as volunteers for the respective terms of one, two, and three years for military service; and any such volunteer, or, in case of draft, as hereinafter provided, any substitute, shall be credited to the town, township, ward of a city, precinct, or election district, or of a county not so subdivided, towards the quota of which he may have volunteered or engaged as a substitute; and every volunteer who is accepted and mustered into the service for a term of one year, unless sooner discharged, shall receive, and be paid by the United States, a bounty of one hundred dollars; and if for a term of two years, unless sooner discharged, a

bounty of two hundred dollars; and if for a term of three years, unless sooner discharged, a bounty of three hundred dollars; one third of which bounty shall be paid to the soldier at the time of his being mustered into the service, one third at the expiration of one half of his term of service, and one third at the expiration of his term of service; and in case of his death while in service, the residue of his bounty unpaid shall be paid to his widow, if he shall have left a widow; if not, to his children, or if there be none, to his mother, if she be a widow.

Sec. 2. *And be it further enacted*, That in case the quota, or any part thereof, of any town, township, ward of a city, precinct, or election district, or of any county not so subdivided, shall not be filled within the space of fifty days after such call, then the President shall immediately order a draft for one year to fill such quota, or any part thereof, which may be unfilled; and in case of any such draft no payment of money shall be accepted or received by the government as commutation to release any enrolled or drafted man from personal obligation to perform military service.

Sec. 3. *And be it further enacted*, That it shall be lawful for the executive of any of the states to send recruiting agents into any of the states declared to be in rebellion, except the states of Arkansas, Tennessee, and Louisiana, to recruit volunteers under any call under the provisions of this act, who shall be credited to the state, and to the respective subdivisions thereof, which may procure the enlistment.

Sec. 4. *And be it further enacted*, That drafted men, substitutes, and volunteers, when mustered in, shall be organized in, or assigned to, regiments, batteries, or other organizations of their own states, and, as far as practicable, shall, when assigned, be permitted to select their own regiments, batteries, or other organizations from among those of their respective states which at the time of assignment may not be filled to their maximum number.

* * * * * * *

Sec. 6. *And be it further enacted*, That section three of an act entitled "An act to amend an act entitled 'An act for enrolling

and calling out the national forces, and for other purposes,'" approved February twenty-four, eighteen hundred and sixty-four, be, and the same is hereby, amended, so as to authorize and direct district provost-marshals, under the direction of the provost-marshal general, to make a draft for one hundred per centum in addition to the number required to fill the quota of any district as provided by said section.

* * * * * * *

SEC. 10. *And be it further enacted*, That nothing contained in this act shall be construed to alter, or in any way affect, the provisions of the seventeenth section of an act approved February twenty-fourth, eighteen hundred and sixty-four, entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,'" approved March third, eighteen hundred and sixty-three.

SEC. 11. *And be it further enacted*, That nothing contained in this act, shall be construed to alter or change the provisions of existing laws relative to permitting persons liable to military service to furnish substitutes.

APPROVED, July 4, 1864.

No. 41. Act to encourage Immigration

July 4, 1864

A BILL to encourage immigration was reported in the House, April 16, 1864, by Elihu B. Washburne of Illinois, from the select committee on that subject. The bill passed the House April 21, and the Senate with amendments June 27. The House disagreed to the Senate amendments, and the bill went to a conference committee, whose report was accepted by the two houses July 2.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XIII, 385–387. For the proceedings see the *House and Senate Journals*, 38th Cong., 1st Sess., and the *Cong. Globe*. Washburne's report of April 16 is *House Report 56;* see also *House Report 42*, 37th Cong., 3d Sess. See Sherman, *Recollections*, II, 1081–1083.

An Act to encourage Immigration.

Be it enacted . . ., That the President of the United States is hereby authorized, by and with the advice and consent of the Senate, to appoint a commissioner of immigration, who shall be subject to the direction of the Department of State. . . .

SEC. 2. *And be it further enacted*, That all contracts that shall be made by emigrants to the United States in foreign countries, in conformity to regulations that may be established by the said commissioner, whereby emigrants shall pledge the wages of their labor for a term not exceeding twelve months, to repay the expenses of their emigration, shall be held to be valid in law, and may be enforced in the courts of the United States, or of the several states and territories; and such advances, if so stipulated in the contract, and the contract be recorded in the recorder's office in the county where the emigrant shall settle, shall operate as a lien upon any land thereafter acquired by the emigrant, whether under the homestead law when the title is consummated, or on property otherwise acquired until liquidated by the emigrant; but nothing herein contained shall be deemed to authorize any contract contravening the Constitution of the United States, or creating in any way the relation of slavery or servitude.

SEC. 3. *And be it further enacted*, That no emigrant to the United States who shall arrive after the passage of this act shall be compulsively enrolled for military service during the existing insurrection, unless such emigrant shall voluntarily renounce under oath his allegiance to the country of his birth, and declare his intention to become a citizen of the United States.

SEC. 4. *And be it further enacted*, That there shall be established in the city of New York an office to be known as the United States Emigrant Office; and there shall be appointed, by and with the advice and consent of the Senate, an officer for said city, to be known as superintendent of immigration . . .; and such superintendent shall, under the direction of the commissioner of immigration, make contracts with the different rail-

roads and transportation companies of the United States for transportation tickets, to be furnished to such immigrants, and to be paid for by them, and shall, under such rules as may be prescribed by the commissioner of immigration, protect such immigrants from imposition and fraud, and shall furnish them such information and facilities as will enable them to proceed in the cheapest and most expeditious manner to the place of their destination. And such superintendent of immigration shall perform such other duties as may be prescribed by the commissioner of immigration: *Provided*, That the duties hereby imposed upon the superintendent in the city of New York shall not be held to effect the powers and duties of the commissioner of immigration of the State of New York; and it shall be the duty of said superintendent in the city of New York to see that the provisions of the act commonly known as the passenger act are strictly complied with, and all breaches thereof punished according to law.

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Approved, July 4, 1864.

No. 42. Proclamation regarding Reconstruction

July 8, 1864

December 15, 1863, on motion of Henry Winter Davis of Maryland, so much of Lincoln's message of December 8 as related "to the duty of the United States to guaranty a republican form of government to the States in which the governments recognized by the United States have been abrogated or overthrown" was referred, by a vote of 91 to 80, to a select committee of the House, with instructions to report bills to carry into execution the said guarantee. A bill was reported by the committee February 15, 1864, and passed the House May 4 by a vote of 74 to 66. July 1 the Senate, by a vote of 30 to 13, adopted a substitute, proposed by B. Gratz Brown of Missouri, declaring that when the inhabitants of any State had been declared in insurrection by proclamation under the act of July 13, 1861, they should be "incapable of casting any vote for electors of President or Vice President of the United States, or of electing Senators and Representatives in Congress,

until said insurrection in said State is suppressed or abandoned and said inhabitants have returned to their obedience to the Government of the United States, nor until such return to obedience shall be declared by proclamation of the President, issued by virtue of an act of Congress, hereafter to be passed, authorizing the same." The House refused to concur, and July 2 the Senate, by a vote of 18 to 14, receded, and the House bill passed. Lincoln was opposed to the bill and withheld his approval, but immediately upon the adjournment of Congress issued the following proclamation with the bill attached. The bill was the first formal plan of reconstruction agreed upon by Congress.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XIII, Appendix, xiv-xvii. For the proceedings see the *House and Senate Journals*, 38th Cong., 1st Sess., and the *Cong. Globe*. On Lincoln's plan of reconstruction see Cox, *Three Decades*, chap. 17. On the bill see Nicolay and Hay, *Lincoln*, IX, chap. 5; E. B. Scott, *Reconstruction during the Civil War*.

BY THE PRESIDENT OF THE UNITED STATES.

A PROCLAMATION.

(The proclamation recites the passage of the bill annexed, and its presentation to the President "less than one hour before the *sine die* adjournment of said session," and continues:)

And whereas the said bill contains, among other things, a plan for restoring the states in rebellion to their proper practical relation in the Union, which plan expresses the sense of congress upon that subject, and which plan it is now thought fit to lay before the people for their consideration:

Now, therefore, I, ABRAHAM LINCOLN, President of the United States, do proclaim, declare, and make known, that, while I am (as I was in December last, when by proclamation I propounded a plan for restoration) unprepared by a formal approval of this bill, to be inflexibly committed to any single plan of restoration; and, while I am also unprepared to declare that the free state constitutions and governments already adopted and installed in Arkansas and Louisiana shall be set aside and held for nought, thereby repelling and discouraging the loyal citizens who have set up the same as to further effort, or to declare a constitutional competency in congress to abolish slavery in states, but am at

the same time sincerely hoping and expecting that a constitutional amendment abolishing slavery throughout the nation may be adopted, nevertheless I am fully satisfied with the system for restoration contained in the bill as one very proper plan for the loyal people of any state choosing to adopt it, and that I am, and at all times shall be, prepared to give the executive aid and assistance to any such people, so soon as the military resistance to the United States shall have been suppressed in any such state, and the people thereof shall have sufficiently returned to their obedience to the constitution and the laws of the United States, in which cases military governors will be appointed, with directions to proceed according to the bill.

* * * * * * *

A Bill to guarantee to certain States whose Governments have been usurped or overthrown a Republican Form of Government.

Be it enacted . . ., That in the states declared in rebellion against the United States, the President shall, by and with the advice and consent of the Senate, appoint for each a provisional governor, . . . who shall be charged with the civil administration of such state until a state government therein shall be recognized as hereinafter provided.

SEC. 2. *And be it further enacted*, That so soon as the military resistance to the United States shall have been suppressed in any such state, and the people thereof shall have sufficiently returned to their obedience to the constitution and the laws of the United States, the provisional governor shall direct the marshal of the United States, as speedily as may be, to name a sufficient number of deputies, and to enroll all white male citizens of the United States, resident in the state in their respective counties, and to request each one to take the oath to support the constitution of the United States, and in his enrolment to designate those who take and those who refuse to take that oath, which rolls shall be forthwith returned to the provisional governor; and if the persons taking that oath shall amount to a majority of the persons enrolled in the state, he shall, by proclamation, invite the loyal people of the state to elect delegates to a convention charged to declare the will of the people of the state relative to the reëstablishment of a state government subject to, and in conformity with, the constitution of the United States.

SEC. 3. *And be it further enacted*, That the convention shall consist of as many members as both houses of the last constitutional state legislature, apportioned by the provisional governor among the counties, parishes, or districts of the state, in proportion to the white population, returned as electors, by the

marshal, in compliance with the provisions of this act. The provisional governor shall, by proclamation, declare the number of delegates to be elected by each county, parish, or election district; name a day of election not less than thirty days thereafter; designate the places of voting in each county, parish, or district, conforming as nearly as may be convenient to the places used in the state elections next preceding the rebellion; appoint one or more commissioners to hold the election at each place of voting, and provide an adequate force to keep the peace during the election.

SEC. 4. *And be it further enacted*, That the delegates shall be elected by the loyal white male citizens of the United States of the age of twenty-one years, and resident at the time in the county, parish, or district in which they shall offer to vote, and enrolled as aforesaid, or absent in the military service of the United States, and who shall take and subscribe the oath of allegiance to the United States in the form contained in the act of congress of July two, eighteen hundred and sixty-two; and all such citizens of the United States who are in the military service of the United States shall vote at the headquarters of their respective commands, under such regulations as may be prescribed by the provisional governor for the taking and return of their votes; but no person who has held or exercised any office, civil or military, state or confederate, under the rebel usurpation, or who has voluntarily borne arms against the United States, shall vote, or be eligible to be elected as delegate, at such election.

SEC. 5. *And be it further enacted*, That the said commissioners, or either of them, shall hold the election in conformity with this act, and, so far as may be consistent therewith, shall proceed in the manner used in the state prior to the rebellion. The oath of allegiance shall be taken and subscribed on the poll-book by every voter in the form above prescribed, but every person known by, or proved to, the commissioners to have held or exercised any office, civil or military, state or confederate, under the rebel usurpation, or to have voluntarily borne arms against the United States, shall be excluded, though he offer to take the oath; and in case any person who shall have borne arms against the United States shall offer to vote he shall be deemed to have borne arms voluntarily unless he shall prove the contrary by the testimony of a qualified voter. The poll-book, showing the name and oath of each voter, shall be returned to the provisional governor by the commissioners of election or the one acting, and the provisional governor shall canvass such returns, and declare the person having the highest number of votes elected.

SEC. 6. *And be it further enacted*, That the provisional governor shall, by proclamation, convene the delegates elected as aforesaid, at the capital of the state, on a day not more than three months after the election, giving at least thirty days' notice of such day. In case the said capital shall in his judgment be unfit, he shall in his proclamation appoint another place. He shall preside

over the deliberations of the convention, and administer to each delegate, before taking his seat in the convention, the oath of allegiance to the United States in the form above prescribed.

SEC. 7. *And be it further enacted*, That the convention shall declare, on behalf of the people of the state, their submission to the constitution and laws of the United States, and shall adopt the following provisions, hereby prescribed by the United States in the execution of the constitutional duty to guarantee a republican form of government to every state, and incorporate them in the constitution of the state, that is to say:

First. No person who has held or exercised any office, civil or military, except offices merely ministerial, and military offices below the grade of colonel, state or confederate, under the usurping power, shall vote for or be a member of the legislature, or governor.

Second. Involuntary servitude is forever prohibited, and the freedom of all persons is guaranteed in said state.

Third. No debt, state or confederate, created by or under the sanction of the usurping power, shall be recognized or paid by the state.

SEC. 8. *And be it further enacted*, That when the convention shall have adopted those provisions, it shall proceed to reëstablish a republican form of government, and ordain a constitution containing those provisions, which, when adopted, the convention shall by ordinance provide for submitting to the people of the state, entitled to vote under this law, at an election to be held in the manner prescribed by the act for the election of delegates; but at a time and place named by the convention, at which election the said electors, and none others, shall vote directly for or against such constitution and form of state government, and the returns of said election shall be made to the provisional governor, who shall canvass the same in the presence of the electors, and if a majority of the votes cast shall be for the constitution and form of government, he shall certify the same, with a copy thereof, to the President of the United States, who, after obtaining the assent of congress, shall, by proclamation, recognize the government so established, and none other, as the constitutional government of the state, and from the date of such recognition, and not before, Senators and Representatives, and electors for President and Vice-President may be elected in such state, according to the laws of the state and of the United States.

SEC. 9. *And be it further enacted*, That if the convention shall refuse to reëstablish the state government on the conditions aforesaid, the provisional governor shall declare it dissolved; but it shall be the duty of the President, whenever he shall have reason to believe that a sufficient number of the people of the state entitled to vote under this act, in number not less than a majority of those enrolled, as aforesaid, are willing to reëstablish a state government on the conditions aforesaid, to direct the provisional governor to

order another election of delegates to a convention for the purpose and in the manner prescribed in this act, and to proceed in all respects as hereinbefore provided, either to dissolve the convention, or to certify the state government reëstablished by it to the President.

SEC. 10. *And be it further enacted*, That, until the United States shall have recognized a republican form of state government, the provisional governor in each of said states shall see that this act, and the laws of the United States, and the laws of the state in force when the state government was overthrown by the rebellion, are faithfully executed within the state; but no law or usage whereby any person was heretofore held in involuntary servitude shall be recognized or enforced by any court or officer in such state, and the laws for the trial and punishment of white persons shall extend to all persons, and jurors shall have the qualifications of voters under this law for delegates to the convention. The President shall appoint such officers provided for by the laws of the state when its government was overthrown as he may find necessary to the civil administration of the state, all which officers shall be entitled to receive the fees and emoluments provided by the state laws for such officers.

SEC. 11. *And be it further enacted*, That until the recognition of a state government as aforesaid, the provisional governor shall, under such regulations as he may prescribe, cause to be assessed, levied, and collected, for the year eighteen hundred and sixty-four, and every year thereafter, the taxes provided by the laws of such state to be levied during the fiscal year preceding the overthrow of the state government thereof, in the manner prescribed by the laws of the state, as nearly as may be; and the officers appointed, as aforesaid, are vested with all powers of levying and collecting such taxes, by distress or sale, as were vested in any officers or tribunal of the state government aforesaid for those purposes. The proceeds of such taxes shall be accounted for to the provisional governor, and be by him applied to the expenses of the administration of the laws in such state, subject to the direction of the President, and the surplus shall be deposited in the treasury of the United States to the credit of such state, to be paid to the state upon an appropriation therefor, to be made when a republican form of government shall be recognized therein by the United States.

SEC. 12. *And be it further enacted*, That all persons held to involuntary servitude or labor in the states aforesaid are hereby emancipated and discharged therefrom, and they and their posterity shall be forever free. And if any such persons or their posterity shall be restrained of liberty, under pretence of any claim to such service or labor, the courts of the United States shall, on habeas corpus, discharge them.

SEC. 13. *And be it further enacted*, That if any person declared free by this act, or any law of the United States, or any proclamation of the President, be restrained of liberty, with intent to be held in or reduced to involuntary servi-

tude or labor, the person convicted before a court of competent jurisdiction of such act shall be punished by fine of not less than fifteen hundred dollars, and be imprisoned not less than five nor more than twenty years.

SEC. 14. *And be it further enacted*, That every person who shall hereafter hold or exercise any office, civil or military, except offices merely ministerial, and military offices below the grade of colonel, in the rebel service, state or confederate, is hereby declared not to be a citizen of the United States.

No. 43. Electoral Count

February 8, 1865

A JOINT resolution declaring certain States not eligible to representation in the electoral college was presented in the House, December 19, 1864, by Wilson of Iowa, and passed the House January 30, 1865. The resolution was reported in the Senate February 1, with an amendment to the preamble. An amendment to strike out Louisiana from the list of States named was rejected, and on the 4th, by a vote of 29 to 10, the amended resolution passed the Senate. The House concurred in the Senate amendment. In his message of approval, February 8, Lincoln disclaimed "all right of the Executive to interfere in any way in the matter of canvassing or counting electoral votes," and further disclaimed "that by signing said resolution he has expressed any opinion on the recitals of the preamble or any judgment of his own upon the subject of the resolution."

REFERENCES. — *Text* in *U.S. Statutes at Large*, XIII, 567, 568. For the proceedings see the *House and Senate Journals*, 38th Cong., 2d Sess., and the *Cong. Globe*.

Joint Resolution declaring certain States not entitled to Representation in the Electoral College.

WHEREAS the inhabitants and local authorities of the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, and Tennessee rebelled against the government of the United States, and were in such condition on the eighth day of November, eighteen hundred and sixty-four, that no valid election for electors of President and Vice-President of the United States, accord-

ing to the constitution and laws thereof, was held therein on said day: Therefore,

Be it resolved . . ., That the states mentioned in the preamble to this joint resolution are not entitled to representation in the electoral college for the choice of President and Vice-President of the United States, for the term of office commencing on the fourth day of March, eighteen hundred and sixty-five; and no electoral votes shall be received or counted from said states concerning the choice of President and Vice-President for said term of office.

APPROVED, February 8, 1865.

No. 44. Freedmen's Bureau

March 3, 1865

A BILL "to establish a bureau of emancipation" was reported in the House, December 22, 1863, by Eliot of Massachusetts, from the Select Committee on Emancipation, and recommitted. The bill was reported with amendments January 13, 1864, and March 1 passed the House by a vote of 69 to 67. In the Senate the bill was referred to the Select Committee on Slavery and Freedmen, of which Sumner was chairman. A bill to establish a bureau of freedmen was reported from the committee April 12. May 25 the committee reported the House bill with a substitute amendment, and the bill thus amended passed the Senate June 29 by a vote of 21 to 9. The select committee of the House recommended that the amendments of the Senate be disagreed to. Further action was postponed until December. December 20 a conference committee was appointed. The report of the committee was accepted by the House, February 9, 1865, by a vote of 64 to 62, 56 not voting, but rejected by the Senate on the 22d by a vote of 14 to 24. March 3 the report of a second conference committee was agreed to by both houses.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XIII, 507–509. For the proceedings see the *House and Senate Journals*, 38th Cong., 1st and 2d Sess., and the *Cong. Globe*. On the work of the bureau see *Senate Exec. Doc. 28*, 38th Cong., 2d Sess.; *House Exec. Docs. 11, 70*, and *120*, 39th Cong., 1st Sess.; *House Exec. Doc. 7*, 39th Cong., 2d Sess.; *House Report 30*, 40th Cong., 2d Sess.; *House Exec. Doc. 329, ibid.; House Exec. Doc. 142*, 41st Cong., 2d

Sess.; *House Misc. Doc. 87*, 42d Cong., 3d Sess.; *House Exec. Doc. 10*, 43d Cong., 1st Sess.; *House Exec. Doc. 144*, 44th Cong., 1st Sess. On the condition of freedmen see *Senate Exec. Doc. 53*, and *Senate Report 25*, 38th Cong., 1st Sess.; *House Exec. Doc. 118*, 39th Cong., 1st Sess. Southern State legislation respecting freedmen is summarized in McPherson, *Reconstruction*, 29–44. See also Cox, *Three Decades*, chap. 25.

An Act to establish a Bureau for the Relief of Freedmen and Refugees.

Be it enacted . . ., That there is hereby established in the War Department, to continue during the present war of rebellion, and for one year thereafter, a bureau of refugees, freedmen, and abandoned lands, to which shall be committed, as hereinafter provided, the supervision and management of all abandoned lands, and the control of all subjects relating to refugees and freedmen from rebel states, or from any district of country within the territory embraced in the operations of the army, under such rules and regulations as may be prescribed by the head of the bureau and approved by the President. The said bureau shall be under the management and control of a commissioner to be appointed by the President, by and with the advice and consent of the Senate, . . . And the commissioner and all persons appointed under this act, shall, before entering upon their duties, take the oath of office prescribed in . . . [the act of July 2, 1862]. . . .

Sec. 2. *And be it further enacted*, That the Secretary of War may direct such issues of provisions, clothing, and fuel, as he may deem needful for the immediate and temporary shelter and supply of destitute and suffering refugees and freedmen and their wives and children, under such rules and regulations as he may direct.

Sec. 3. *And be it further enacted*, That the President may, by and with the advice and consent of the Senate, appoint an assistant commissioner for each of the states declared to be in insurrection, not exceeding ten in number, who shall, under the direction of the commissioner, aid in the execution of the provi-

sions of this act; . . . And any military officer may be detailed and assigned to duty under this act without increase of pay or allowances. The commissioner shall, before the commencement of each regular session of congress, make full report of his proceedings with exhibits of the state of his accounts to the President, who shall communicate the same to congress, and shall also make special reports whenever required to do so by the President or either house of congress; and the assistant commissioners shall make quarterly reports of their proceedings to the commissioner, and also such other special reports as from time to time may be required.

SEC. 4. *And be it further enacted*, That the commissioner, under the direction of the President, shall have authority to set apart, for the use of loyal refugees and freedmen, such tracts of land within the insurrectionary states as shall have been abandoned, or to which the United States shall have acquired title by confiscation or sale, or otherwise, and to every male citizen, whether refugee or freedman, as aforesaid, there shall be assigned not more than forty acres of such land, and the person to whom it was so assigned shall be protected in the use and enjoyment of the land for the term of three years at an annual rent not exceeding six per centum upon the value of such land, as it was appraised by the state authorities in the year eighteen hundred and sixty, for the purpose of taxation, and in case no such appraisal can be found, then the rental shall be based upon the estimated value of the land in said year, to be ascertained in such manner as the commissioner may by regulation prescribe. At the end of said term, or at any time during said term, the occupants of any parcels so assigned may purchase the land and receive such title thereto as the United States can convey, upon paying therefor the value of the land, as ascertained and fixed for the purpose of determining the annual rent aforesaid.

SEC. 5. *And be it further enacted*, That all acts and parts of acts inconsistent with the provisions of this act, are hereby repealed.

APPROVED, March 3, 1865.

No. 45. Freedom for Soldiers' Families

March 3, 1865

A BILL to secure the freedom of soldiers' families was introduced in the Senate, December 13, 1864, by Wilson of Massachusetts, and passed that body January 9, 1865, notwithstanding strong opposition, by a vote of 27 to 10. The vote in the House, February 22, on the passage of the bill was 74 to 63, 45 not voting.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XIII, 571. For the proceedings see the *House and Senate Journals*, 38th Cong., 2d Sess., and the *Cong. Globe*. The important debate was in the Senate.

A Resolution to encourage Enlistments and to promote the Efficiency of the military Forces of the United States.

Resolved . . ., That, for the purpose of encouraging enlistments and promoting the efficiency of the military and naval forces of the United States, it is hereby enacted that the wife and children, if any he have, of any person that has been, or may be, mustered into the military or naval service of the United States, shall, from and after the passage of this act, be forever free, any law, usage, or custom whatsoever to the contrary notwithstanding; and in determining who is or was the wife and who are the children of the enlisted person herein mentioned, evidence that he and the woman claimed to be his wife have cohabited together, or associated as husband and wife, and so continued to cohabit or associate at the time of the enlistment, or evidence that a form or ceremony of marriage, whether such marriage was or was not authorized or recognized by law, has been entered into or celebrated by them, and that the parties thereto thereafter lived together, or associated or cohabited as husband and wife, and so continued to live, cohabit, or associate at the time of the enlistment, shall be deemed sufficient proof of marriage for the purposes of this act, and the children born of any such marriage shall be deemed and taken to be the children embraced within the provisions of this act, whether such marriage shall or shall not have been dissolved at the time of such enlistment.

APPROVED, March 3, 1865.

No. 46. Proclamation of Amnesty

May 29, 1865

REFERENCES. — *Text* in *U.S. Statutes at Large*, XIII, 758–760. For lists of pardons granted by Johnson see *House Exec. Doc. 99*, 39th Cong., 1st Sess.; *ibid. 31* and *116*, 39th Cong., 2d Sess.; *ibid. 32*, 40th Cong., 1st Sess., and *ibid. 16*, 40th Cong., 2d Sess.

BY THE PRESIDENT OF THE UNITED STATES.

A PROCLAMATION.

(After a reference to the amnesty proclamations of December 8, 1863, and March 26, 1864, the proclamation grants amnesty to all persons who have participated in the existing rebellion, subject to the exceptions indicated, and on condition of taking and subscribing the following oath:)

"I, ———, do solemnly swear, (or affirm,) in presence of Almighty God, that I will henceforth faithfully support, protect, and defend the Constitution of the United States, and the union of the States thereunder; and that I will, in like manner, abide by, and faithfully support all laws, and proclamations which have been made during the existing rebellion with reference to the emancipation of slaves. So help me God."

The following classes of persons are excepted from the benefits of this Proclamation: —

1st. All who are or shall have been pretended civil or diplomatic officers, or otherwise domestic or foreign agents, of the pretended confederate government;

2d. All who left judicial stations under the United States to aid the rebellion;

3d. All who shall have been military or naval officers of said pretended confederate government above the rank of colonel in the army or lieutenant in the navy;

4th. All who left seats in the Congress of the United States to aid the rebellion;

5th. All who resigned or tendered resignations of their commissions in the army or navy of the United States to evade duty in resisting the rebellion;

6th. All who have engaged in any way in treating otherwise than lawfully as prisoners of war persons found in the United States service, as officers, soldiers, seamen, or in other capacities;

7th. All persons who have been, or are, absentees from the United States for the purpose of aiding the rebellion;

8th. All military and naval officers in the rebel service, who were educated by the government in the Military Academy at West Point or the United States Naval Academy;

9th. All persons who held the pretended offices of governors of states in insurrection against the United States;

10th. All persons who left their homes within the jurisdiction and protection of the United States, and passed beyond the federal military lines into the pretended confederate states for the purpose of aiding the rebellion;

11th. All persons who have been engaged in the destruction of the commerce of the United States upon the high seas, and all persons who have made raids into the United States from Canada, or been engaged in destroying the commerce of the United States upon the lakes and rivers that separate the British Provinces from the United States;

12th. All persons who, at the time when they seek to obtain the benefits hereof by taking the oath herein prescribed, are in military, naval, or civil confinement, or custody, or under bonds of the civil, military, or naval authorities, or agents of the United States as prisoners of war, or persons detained for offences of any kind, either before or after conviction;

13th. All persons who have voluntarily participated in said rebellion, and the estimated value of whose taxable property is over twenty thousand dollars;

14th. All persons who have taken the oath of amnesty as prescribed in the President's Proclamation of December 8th, A.D., 1863, or an oath of allegiance to the government of the United States since the date of said Proclamation, and who have not thenceforward kept and maintained the same inviolate.

Provided, That special application may be made to the President for pardon by any person belonging to the excepted classes;

and such clemency will be liberally extended as may be consistent with the facts of the case and the peace and dignity of the United States.

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No. 47. Proclamation appointing a Governor for North Carolina

May 29, 1865

THE appointment of military governors in the States lately in rebellion, and the reëstablishment of the State governments under their direction, were steps of primary importance in the plan of executive reconstruction proposed by President Johnson. Appointments similar to that in North Carolina were proclaimed June 13, for Mississippi; June 17, for Georgia and Texas; June 21, for Alabama; June 30, for South Carolina, and July 13, for Florida. An executive order of May 9 had declared the authority of the United States reëstablished in Virginia, directed the various departments of the national government to resume operations in that State, and promised federal aid to Governor Pierpont if necessary.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XIII, 760, 761. On Johnson's theory of reconstruction in this connection see his annual message of December 4, 1865; see also Cox, *Three Decades*, chaps. 18, 27–31; McCall, *Thaddeus Stevens*, chap. 14.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

WHEREAS the fourth section of the fourth article of the Constitution of the United States declares that the United States shall guarantee to every state in the Union a republican form of government, and shall protect each of them against invasion and domestic violence; and whereas the President of the United States is, by the constitution, made commander-in-chief of the army and navy, as well as chief civil executive officer of the United States, and is bound by solemn oath faithfully to execute the office of President of the United States, and to take care that the laws be faithfully executed; and whereas the rebellion,

which has been waged by a portion of the people of the United States against the properly constituted authorities of the government thereof, in the most violent and revolting form, but whose organized and armed forces have now been almost entirely overcome, has, in its revolutionary progress, deprived the people of the State of North Carolina of all civil government; and whereas it becomes necessary and proper to carry out and enforce the obligations of the United States to the people of North Carolina, in securing them in the enjoyment of a republican form of government:

Now, therefore, in obedience to the high and solemn duties imposed upon me by the Constitution of the United States, and for the purpose of enabling the loyal people of said state to organize a state government, whereby justice may be established, domestic tranquillity insured, and loyal citizens protected in all their rights of life, liberty, and property, I, ANDREW JOHNSON, President of the United States, and commander-in-chief of the army and navy of the United States, do hereby appoint William W. Holden provisional governor of the State of North Carolina, whose duty it shall be, at the earliest practicable period, to prescribe such rules and regulations as may be necessary and proper for convening a convention, composed of delegates to be chosen by that portion of the people of said state who are loyal to the United States, and no others, for the purpose of altering or amending the constitution thereof; and with authority to exercise, within the limits of said state, all the powers necessary and proper to enable such loyal people of the State of North Carolina to restore said state to its constitutional relations to the federal government, and to present such a republican form of state government as will entitle the state to the guarantee of the United States therefor, and its people to protection by the United States against invasion, insurrection, and domestic violence; *Provided* that, in any election that may be hereafter held for choosing delegates to any state convention as aforesaid, no person shall be qualified as an elector, or shall be eligible as a member of such convention, unless he shall have previously

taken and subscribed the oath of amnesty, as set forth in the President's Proclamation of May 29, A.D. 1865, and is a voter qualified as prescribed by the constitution and laws of the State of North Carolina in force immediately before the 20th day of May, A.D. 1861, the date of the so-called ordinance of secession; and the said convention, when convened, or the legislature that may be thereafter assembled, will prescribe the qualification of electors, and the eligibility of persons to hold office under the constitution and laws of the state, — a power the people of the several states composing the Federal Union have rightfully exercised from the origin of the government to the present time.

And I do hereby direct —

First. That the military commander of the department, and all officers and persons in the military or naval service, aid and assist the said provisional governor in carrying into effect this Proclamation, and they be enjoyed to abstain from, in any way, hindering, impeding, or discouraging the loyal people from the organization of a state government as herein authorized.

Second. That the Secretary of State proceed to put in force all laws of the United States, the administration whereof belongs to the State Department, applicable to the geographical limits aforesaid.

Third. That the Secretary of the Treasury proceed to nominate for appointment assessors of taxes, and collectors of customs and internal revenue, and such other officers of the Treasury Department as are authorized by law, and put in execution the revenue laws of the United States within the geographical limits aforesaid. In making appointments, the preference shall be given to qualified loyal persons residing within the districts where their respective duties are to be performed. But if suitable residents of the districts shall not be found, then persons residing in other states or districts shall be appointed.

Fourth. That the Postmaster-General proceed to establish post-offices and post-routes, and put into execution the postal laws of the United States within the said state, giving to loyal residents the preference of appointment; but if suitable resi-

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dents are not found, then to appoint agents, &c., from other states.

Fifth. That the district judge for the judicial district in which North Carolina is included proceed to hold courts within said state, in accordance with the provisions of the act of congress. The Attorney-General will instruct the proper officers to libel, and bring to judgment, confiscation, and sale, property subject to confiscation, and enforce the administration of justice within said state in all matters within the cognizance and jurisdiction of the federal courts.

Sixth. That the Secretary of the Navy take possession of all public property belonging to the Navy Department within said geographical limits, and put in operation all acts of congress in relation to naval affairs having application to the said state.

Seventh. That the Secretary of the Interior put in force the laws relating to the Interior Department applicable to the geographical limits aforesaid.

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No. 48. Thirteenth Amendment

December 18, 1865

JANUARY 11, 1864, John B. Henderson of Missouri offered in the Senate a joint resolution for an amendment to the Constitution providing that "slavery or involuntary servitude, except as a punishment for crime, shall not exist in the United States." February 8 Sumner proposed an amendment declaring that "everywhere within the limits of the United States, and of each State or Territory thereof, all persons are equal before the law, so that no person can hold another as a slave." Both of these resolutions were referred to the Committee on the Judiciary, which reported, February 10, a resolution proposing an amendment in the terms of the thirteenth amendment subsequently ratified. On the 15th the House, by a vote of 78 to 62, resolved in favor of an amendment abolishing slavery. The joint resolution passed the Senate, April 8, by a vote of 38 to 6. The resolution was not taken up in the House until May 31, and June 15, by a vote of 95 to 66 (less than the required two-thirds), was rejected. January 31, 1865, the vote was reconsidered and the resolution passed, the vote being 121 to 24, 37 not voting. The ratification of the amendment by twenty-seven States was proclaimed December 18, 1865.

References. — *Text* in *Revised Statutes of the United States* (ed. 1878), 30. For the proceedings in Congress see the *House and Senate Journals*, 38th Cong., 1st and 2d Sess., and the *Cong. Globe*. The principal propositions submitted are collected in McPherson, *Rebellion*, 255–259. On the scope of the amendment see *Slaughter House Cases*, 16 *Wallace*, 36. See also Cox, *Three Decades*, chap. 16; Nicolay and Hay, *Lincoln*, X, chap. 4.

Article XIII.

Sec. 1. Neither slavery nor involuntary servitude, save as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Sec. 2. Congress shall have power to enforce this article by appropriate legislation.

No. 49. Proclamation declaring the Insurrection at an End

April 2, 1866

In a message to the Senate December 18, 1865, in response to a resolution of December 12, President Johnson stated that the rebellion had been suppressed; "that the United States are in possession of every State in which the insurrection existed, and that, as far as it could be done, the courts of the United States have been restored, post-offices reëstablished, and steps taken to put into effective operation the revenue laws of the country." Various executive orders in regard to the blockade, commercial intercourse, *habeas corpus*, etc., preceded the proclamation of April 2. A similar proclamation of August 20 declared the insurrection in Texas at an end.

References. — *Text* in *U.S. Statutes at Large*, XIV, 811–813. As to when the war ended see *United States v. Anderson*, 9 *Wallace*, 56, and *The Protector*, 12 *ibid.*, 700.

By the President of the United States.

A PROCLAMATION.

(The proclamation recites the proclamations of April 15 and 19 and August 16, 1861, July 1, 1862, and April 2, 1863, the resolutions of the House and Senate July 22 and 25, 1861, on the nature of the war, and the proclamation of June 13, 1865, declaring the insurrection in Tennessee to have been suppressed, and continues:)

And whereas there now exists no organized armed resistance of misguided citizens or others to the authority of the United States in the States of Georgia, South Carolina, Virginia, North Carolina, Tennessee, Alabama, Louisiana, Arkansas, Mississippi, and Florida, and the laws can be sustained and enforced therein by the proper civil authority, State or Federal, and the people of said States are well and loyally disposed, and have conformed or will conform in their legislation to the condition of affairs growing out of the amendment to the Constitution of the United States, prohibiting slavery within the limits and jurisdiction of the United States;

And whereas, in view of the before-recited premises, it is the manifest determination of the American people that no State, of its own will, has the right or the power to go out of, or separate itself from, or be separated from the American Union, and that therefore each State ought to remain and constitute an integral part of the United States;

And whereas the people of the several before-mentioned States have, in the manner aforesaid, given satisfactory evidence that they acquiesce in this sovereign and important resolution of national unity;

And whereas it is believed to be a fundamental principle of government that people who have revolted, and who have been overcome and subdued, must either be dealt with so as to induce them voluntarily to become friends, or else they must be held by absolute military power, or devastated, so as to prevent them from ever again doing harm as enemies, which last-named policy is abhorrent to humanity and to freedom;

And whereas the Constitution of the United States provides for constituent communities only as States, and not as Territories, dependencies, provinces, or protectorates;

And whereas such constituent States must necessarily be, and by the Constitution and laws of the United States are made equals, and placed upon a like footing as to political rights, immunities, dignity, and power with the several States with which they are united;

And whereas the observance of political equality as a principle of right and justice is well calculated to encourage the people of the aforesaid States to be and become more and more constant and persevering in their renewed allegiance;

And whereas standing armies, military occupation, martial law, military tribunals, and the suspension of the privilege of the writ of habeas corpus are, in time of peace, dangerous to public liberty, incompatible with the individual rights of the citizen, contrary to the genius and spirit of our free institutions, and exhaustive of the national resources, and ought not, therefore, to be sanctioned or allowed, except in cases of actual necessity, for repelling invasion or surpressing insurrection or rebellion;

And whereas the policy of the government of the United States, from the beginning of the insurrection to its overthrow and final suppression, has been in conformity with the principles herein set forth and enumerated;

Now, therefore, I, ANDREW JOHNSON, President of the United States, do hereby proclaim and declare that the insurrection which heretofore existed in the States of Georgia, South Carolina, Virginia, North Carolina, Tennessee, Alabama, Louisiana, Arkansas, Mississippi, and Florida is at an end, and is henceforth to be so regarded.

* * * * * * *

No. 50. First Civil Rights Act

April 9, 1866

A BILL "to protect all persons in the United States in their civil rights and furnish the means of their vindication" was introduced in the Senate, January 5, 1866, by Lyman Trumbull of Illinois, and referred to the Committee on Judiciary. Amendments reported by the committee were agreed to on the 12th. February 1 an amendment submitted by Trumbull, regarding the citizenship of persons born in the United States, being the first part of section 1 of the act, was agreed to by a vote of 31 to 10, but the following day an amendment striking out the provision for the employment of military force was rejected, the vote being 12 to 24. The bill passed the Senate February 2, and the House, with further amendments, March 13, the vote in the House

being 111 to 38, 34 not voting. The Senate agreed to the House amendments. March 27 President Johnson vetoed the bill. The bill was passed over the veto by the Senate, after a long discussion, April 6, by a vote of 33 to 15, and by the House April 9, by a vote of 132 to 41, 21 not voting.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XIV, 27–29. For the proceedings see the *House and Senate Journals*, 39th Cong., 1st Sess., and the *Cong. Globe*. The text of the Senate bill as reported by the committee is in the *Globe* for January 12. The veto message is in the *Globe* and the *Journals*. For a report of February 19, 1867, on violations of the act, see *Senate Exec. Doc. 29*, 39th Cong., 2d Sess.; for State laws relating to freedmen see *Senate Exec. Doc. 6, ibid.* See also Dunning, *Essays*, 91–99.

An Act to protect all Persons in the United States in their Civil Rights, and furnish the Means of their Vindication.

Be it enacted . . ., That all persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are hereby declared to be citizens of the United States; and such citizens, of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right, in every State and Territory in the United States, to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, as is enjoyed by white citizens, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom, to the contrary notwithstanding.

SEC. 2. *And be it further enacted*, That any person who, under color of any law, statute, ordinance, regulation, or custom, shall subject, or cause to be subjected, any inhabitant of any State or Territory to the deprivation of any right secured or protected by this act, or to different punishment, pains, or penalties on account of such person having at any time been held in a condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted,

or by reason of his color or race, than is prescribed for the punishment of white persons, shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine not exceeding one thousand dollars, or imprisonment not exceeding one year, or both, in the discretion of the court.

SEC. 3. *And be it further enacted*, That the district courts of the United States, within their respective districts, shall have, exclusively of the courts of the several States, cognizance of all crimes and offences committed against the provisions of this act, and also, concurrently with the circuit courts of the United States, of all causes, civil and criminal, affecting persons who are denied or cannot enforce in the courts or judicial tribunals of the State or locality where they may be any of the rights secured to them by the first section of this act; and if any suit or prosecution, civil or criminal, has been or shall be commenced in any State court, against any such person, for any cause whatsoever, or against any officer, civil or military, or other person, for any arrest or imprisonment, trespasses, or wrongs done or committed by virtue or under color of authority derived from this act or the act establishing a Bureau for the relief of Freedmen and Refugees, and all acts amendatory thereof, or for refusing to do any act upon the ground that it would be inconsistent with this act, such defendant shall have the right to remove such cause for trial to the proper district or circuit court in the manner prescribed by the "Act relating to habeas corpus and regulating judicial proceedings in certain cases," approved March three, eighteen hundred and sixty-three, and all acts amendatory thereof. The jurisdiction in civil and criminal matters hereby conferred on the district and circuit courts of the United States shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where such laws are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offences against law, the common law, as modified and changed by the constitution and statutes of the State wherein

the court having jurisdiction of the cause, civil or criminal, is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern said courts in the trial and disposition of such cause, and, if of a criminal nature, in the infliction of punishment on the party found guilty.

SEC. 4. *And be it further enacted*, That the district attorneys, marshals, and deputy marshals of the United States, the commissioners appointed by the circuit and territorial courts of the United States, with powers of arresting, imprisoning, or bailing offenders against the laws of the United States, the officers and agents of the Freedmen's Bureau, and every other officer who may be specially empowered by the President of the United States, shall be, and they are hereby, specially authorized and required, at the expense of the United States, to institute proceedings against all and every person who shall violate the provisions of this act, and cause him or them to be arrested and imprisoned, or bailed, as the case may be, for trial before such court of the United States or territorial court as by this act has cognizance of the offence. And with a view to affording reasonable protection to all persons in their constitutional rights of equality before the law, without distinction of race or color, or previous condition of slavery or involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, and to the prompt discharge of the duties of this act, it shall be the duty of the circuit courts of the United States and the superior courts of the Territories of the United States, from time to time, to increase the number of commissioners, so as to afford a speedy and convenient means for the arrest and examination of persons charged with a violation of this act; and such commissioners are hereby authorized and required to exercise and discharge all the powers and duties conferred on them by this act, and the same duties with regard to offences created by this act, as they are authorized by law to exercise with regard to other offences against the laws of the United States.

SEC. 5. *And be it further enacted*, That it shall be the duty of all marshals and deputy marshals to obey and execute all warrants and precepts issued under the provisions of this act, when to them directed; and should any marshal or deputy marshal refuse to receive such warrant or other process when tendered, or to use all proper means diligently to execute the same, he shall, on conviction thereof, be fined in the sum of one thousand dollars, to the use of the person upon whom the accused is alleged to have committed the offence. And the better to enable the said commissioners to execute their duties faithfully and efficiently, in conformity with the Constitution of the United States and the requirements of this act, they are hereby authorized and empowered, within their counties respectively, to appoint, in writing, under their hands, any one or more suitable persons, from time to time, to execute all such warrants and other process as may be issued by them in the lawful performance of their respective duties; and the persons so appointed to execute any warrant or process as aforesaid shall have authority to summon and call to their aid the bystanders or posse comitatus of the proper county, or such portion of the land or naval forces of the United States, or of the militia, as may be necessary to the performance of the duty with which they are charged, and to insure a faithful observance of the clause of the Constitution which prohibits slavery, in conformity with the provisions of this act; and said warrants shall run and be executed by said officers anywhere in the State or Territory within which they are issued.

SEC. 6. *And be it further enacted*, That any person who shall knowingly and wilfully obstruct, hinder, or prevent any officer, or other person charged with the execution of any warrant or process issued under the provisions of this act, or any person or persons lawfully assisting him or them, from arresting any person for whose apprehension such warrant or process may have been issued, or shall rescue or attempt to rescue such person from the custody of the officer, other person or persons, or those lawfully assisting as aforesaid, when so arrested pursuant

to the authority herein given and declared, or shall aid, abet, or assist any person so arrested as aforesaid, directly or indirectly, to escape from the custody of the officer or other person legally authorized as aforesaid, or shall harbor or conceal any person for whose arrest a warrant or process shall have been issued as aforesaid, so as to prevent his discovery and arrest after notice or knowledge of the fact that a warrant has been issued for the apprehension of such person, shall, for either of said offences, be subject to a fine not exceeding one thousand dollars, and imprisonment not exceeding six months, by indictment and conviction before the district court of the United States for the district in which said offence may have been committed, or before the proper court of criminal jurisdiction, if committed within any one of the organized Territories of the United States.

SEC. 7. [Fees of district attorneys, marshals, &c.]

SEC. 8. *And be it further enacted*, That whenever the President of the United States shall have reason to believe that offences have been or are likely to be committed against the provisions of this act within any judicial district, it shall be lawful for him, in his discretion, to direct the judge, marshal, and district attorney of such district to attend at such place within the district, and for such time as he may designate, for the purpose of the more speedy arrest and trial of persons charged with a violation of this act; and it shall be the duty of every judge or other officer, when any such requisition shall be received by him, to attend at the place and for the time therein designated.

SEC. 9. *And be it further enacted*, That it shall be lawful for the President of the United States, or such person as he may empower for that purpose, to employ such part of the land or naval forces of the United States, or of the militia, as shall be necessary to prevent the violation and enforce the due execution of this act.

SEC. 10. *And be it further enacted*, That upon all questions of law arising in any cause under the provisions of this act a final appeal may be taken to the Supreme Court of the United States.

No. 51. Supplementary Freedmen's Bureau Act

July 16, 1866

A BILL to continue in force and amend the act of March 3, 1865, establishing a freedmen's bureau, and enlarging the scope of that act, was vetoed by President Johnson February 19, 1866. An attempt to pass the bill over the veto failed in the Senate. A bill of similar purport, but aiming to avoid the objections urged against the earlier act, was reported in the House, May 22, by Eliot of Massachusetts, from the Committee on Freedmen, and passed that body on the 29th by a vote of 96 to 32, 55 not voting. The Senate passed the bill with amendments June 26, without a division. The House disagreed to the Senate amendments, and the bill received its final form from a conference committee. July 16 President Johnson vetoed the bill. The bill was passed over the veto the same day, in the Senate by a vote of 33 to 12, in the House by a vote of 103 to 33, 46 not voting. An act of July 6, 1868, continued the bureau until July 16, 1869, but an act of July 25, 1868, provided for its discontinuance after January 1, 1869.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XIV, 173–177. For the proceedings on both bills see the *House and Senate Journals*, 39th Cong., 1st Sess., and the *Cong. Globe*. The bill introduced by Eliot, May 22, is compared with the vetoed bill in the *Globe* for May 23. On the work of the bureau see *House Exec. Docs. 120–123*, 39th Cong., 1st Sess., and *ibid.* 7, 39th Cong., 2d Sess.; *Senate Exec. Doc. 27*, 39th Cong., 1st Sess.

An Act to continue in force and to amend "An Act to establish a Bureau for the Relief of Freedmen and Refugees," and for other Purposes.

Be it enacted . . ., That the act to establish a bureau for the relief of freedmen and refugees, approved March third, eighteen hundred and sixty-five, shall continue in force for the term of two years from and after the passage of this act.

SEC. 2. *And be it further enacted*, That the supervision and care of said bureau shall extend to all loyal refugees and freedmen, so far as the same shall be necessary to enable them as speedily as practicable to become self-supporting citizens of the United States, and to aid them in making the freedom conferred by proclamation of the commander-in-chief, by emancipation under the laws of States, and by constitutional amendment, available to them and beneficial to the republic.

SEC. 3. *And be it further enacted*, That the President shall, by and with the advice and consent of the Senate, appoint two assistant commissioners, in addition to those authorized by the act to which this is an amendment, . . . and each of the assistant commissioners of the bureau shall have charge of one district containing such refugees or freedmen, to be assigned him by the commissioner with the approval of the President. And the commissioner shall, under the direction of the President, and so far as the same shall be, in his judgment, necessary for the efficient and economical administration of the affairs of the bureau, appoint such agents, clerks, and assistants as may be required for the proper conduct of the bureau. Military officers or enlisted men may be detailed for service and assigned to duty under this act; and the President may, if in his judgment safe and judicious so to do, detail from the army all the officers and agents of this bureau; but no officer so assigned shall have increase of pay or allowances. . . . And it shall be the duty of the commissioner, when it can be done consistently with public interest, to appoint, as assistant commissioners, agents, and clerks, such men as have proved their loyalty by faithful service in the armies of the Union during the rebellion. And all persons appointed to service under this act and the act to which this is an amendment, shall be so far deemed in the military service of the United States as to be under the military jurisdiction, and entitled to the military protection of the government while in discharge of the duties of their office.

SEC. 4. [Officers of veteran reserve corps now in the bureau may be retained.]

SEC. 5. *And be it further enacted*, That the second section of the act to which this is an amendment shall be deemed to authorize the Secretary of War to issue such medical stores or other supplies and transportation, and afford such medical or other aid as here may be needful for the purposes named in said section: *Provided*, That no person shall be deemed "destitute," "suffering," or "dependent upon the government for support," within the meaning of this act, who is able to find

employment, and could, by proper industry or exertion, avoid such destitution, suffering, or dependence.

[Sections 6–11 relate to the disposition of certain lands in South Carolina and Georgia.]

SEC. 12. *And be it further enacted*, That the commissioner shall have power to seize, hold, use, lease, or sell all buildings and tenements, and any lands appertaining to the same, or otherwise, formerly held under color of title by the late so-called confederate states, and not heretofore disposed of by the United States, and any buildings or lands held in trust for the same by any person or persons, and to use the same or appropriate the proceeds derived therefrom to the education of the freed people; and whenever the bureau shall cease to exist, such of said so-called confederate states as shall have made provision for the education of their citizens without distinction of color shall receive the sum remaining unexpended of such sales or rentals, which shall be distributed among said states for educational purposes in proportion to their population.

SEC. 13. *And be it further enacted*, That the commissioner of this bureau shall at all times co-operate with private benevolent associations of citizens in aid of freedmen, and with agents and teachers, duly accredited and appointed by them, and shall hire or provide by lease buildings for purposes of education whenever such association shall, without cost to the government, provide suitable teachers and means of instruction; and he shall furnish such protection as may be required for the safe conduct of such schools.

SEC. 14. *And be it further enacted*, That in every State or district where the ordinary course of judicial proceedings has been interrupted by the rebellion, and until the same shall be fully restored, and in every State or district whose constitutional relations to the government have been practically discontinued by the rebellion, and until such State shall have been restored in such relations, and shall be duly represented in the Congress of the United States, the right to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease,

sell, hold, and convey real and personal property, and to have full and equal benefit of all laws and proceedings concerning personal liberty, personal security, and the acquisition, enjoyment, and disposition of estate, real and personal, including the constitutional right to bear arms, shall be secured to and enjoyed by all the citizens of such State or district without respect to race or color, or previous condition of slavery. And whenever in either of said States or districts the ordinary course of judicial proceedings has been interrupted by the rebellion, and until the same shall be fully restored, and until such State shall have been restored in its constitutional relations to the government, and shall be duly represented in the Congress of the United States, the President shall, through the commissioner and the officers of the bureau, and under such rules and regulations as the President, through the Secretary of War, shall prescribe, extend military protection and have military jurisdiction over all cases and questions concerning the free enjoyment of such immunities and rights, and no penalty or punishment for any violation of law shall be imposed or permitted because of race or color, or previous condition of slavery, other or greater than the penalty or punishment to which white persons may be liable by law for the like offence. But the jurisdiction conferred by this section upon the officers of the bureau shall not exist in any State where the ordinary course of judicial proceedings has not been interrupted by the rebellion, and shall cease in every State when the courts of the State and the United States are not disturbed in the peaceable course of justice, and after such State shall be fully restored in its constitutional relations to the government, and shall be duly represented in the Congress of the United States.

SEC. 15. *And be it further enacted*, That all officers, agents, and employés of this bureau, before entering upon the duties of their office shall take the oath prescribed in the first section of the act to which this is an amendment; and all acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

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No. 52. Restoration of Tennessee

July 24, 1866

A BILL to restore Tennessee, accompanied by certain testimony and other papers, was reported in the House, March 5, 1866, by Bingham of Ohio, from the Joint Select Committee on Reconstruction, and recommitted. It was taken up July 19, and agreed to on the 20th, the vote on the preamble being 86 to 48, 48 not voting, and on the resolution 126 to 12, 45 not voting. In the Senate an amendment proposed by Sumner, providing that there should be no denial of equal legal rights on account of race or color, was rejected, 4 to 34, and an amended preamble agreed to, the latter vote being 23 to 20. The amendments to the resolution were agreed to by the House, July 23, without a division, and the amendment to the preamble by a vote of 93 to 26, 62 not voting.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XIV, 364. For the proceedings see the *House and Senate Journals*, 39th Cong., 1st Sess., and the *Cong. Globe*. The majority and minority reports of March 5 and 6 are *House Reports 29* and *30*. In the history of the act the evolution of the preamble is particularly important.

Joint Resolution restoring Tennessee to her Relations to the Union.

WHEREAS, in the year eighteen hundred and sixty-one, the government of the State of Tennessee was seized upon and taken possession of by persons in hostility to the United States, and the inhabitants of said State in pursuance of an act of Congress were declared to be in a state of insurrection against the United States; and whereas said State government can only be restored to its former political relations in the Union by the consent of the law-making power of the United States; and whereas the people of said State did, on the twenty-second day of February, eighteen hundred and sixty-five, by a large popular vote, adopt and ratify a constitution of government whereby slavery was abolished, and all ordinances and laws of secession and debts contracted under the same were declared void; and whereas a State government has been organized under said constitution which has ratified the amendment to the Constitution of the United States abolishing slavery, also the amendment proposed by the thirty-ninth Congress, and has done other acts proclaiming and denoting loyalty; Therefore,

Be it resolved . . ., That the State of Tennessee is hereby restored to her former proper, practical relations to the Union, and is again entitled to be represented by senators and representatives in Congress.

APPROVED, July 24, 1866.

No. 53. Election of Senators

July 25, 1866

A BILL to regulate senatorial elections was reported in the Senate, July 9, 1866, by Daniel Clark of New Hampshire, from the Committee on the Judiciary, to whom a resolution on the subject had been referred. The bill passed the Senate on the 11th by a vote of 25 to 11, and the House on the 25th without a division. A motion to lay the bill on the table in the House was lost, the vote being 22 to 89.

REFERENCES.— *Text* in *U.S. Statutes at Large*, XIV, 243, 244. For the proceedings see the *House and Senate Journals*, 39th Cong., 1st Sess., and the *Cong. Globe*. There was no discussion in the House.

An Act to regulate the Times and Manner of holding Elections for Senators in Congress.

Be it enacted . . ., That the legislature of each State which shall be chosen next preceding the expiration of the time for which any senator was elected to represent said State in Congress, shall, on the second Tuesday after the meeting and organization thereof, proceed to elect a senator in Congress, in the place of such senator so going out of office, in the following manner: Each house shall openly, by a viva voce [*vote*] of each member present, name one person for senator in Congress from said State, and the name of the person so voted for, who shall have a majority of the whole number of votes cast in each house shall be entered on the journal of each house by the clerk or secretary thereof; but if either house shall fail to give such majority to any person on said day, that fact shall be entered

on the journal. At twelve o'clock, meridian, of the day following that on which proceedings are required to take place, as aforesaid, the members of the two houses shall convene in joint assembly and the journal of each house shall then be read, and if the same person shall have received a majority of all the votes in each house, such person shall be declared duly elected senator to represent said State in the Congress of the United States; but if the same person shall not have received a majority of the votes in each house, or if either house shall have failed to take proceedings as required by this act, the joint assembly shall then proceed to choose, by a viva voce vote of each member present a person for the purpose aforesaid, and the person having a majority of all the votes of the said joint assembly, a majority of all the members elected to both houses being present and voting, shall be declared duly elected; and in case no person shall receive such majority on the first day, the joint assembly shall meet at twelve o'clock, meridian, of each succeeding day during the session of the legislature, and take at least one vote until a senator shall be elected.

Sec. 2. *And be it further enacted*, That whenever, on the meeting of the legislature of any State, a vacancy shall exist in the representation of such State in the senate of the United States, said legislature shall proceed, on the second Tuesday after the commencement and organization of its session, to elect a person to fill such vacancy, in the manner hereinbefore provided for the election of a senator for a full term; and if a vacancy shall happen during the session of the legislature, then on the second Tuesday after the legislature shall have been organized and shall have notice of such vacancy.

Sec. 3. *And be it further enacted*, That it shall be the duty of the governor of the State from which any senator shall have been chosen as aforesaid to certify his election, under the seal of the State, to the President of the senate of the United States, which certificate shall be countersigned by the secretary of state of the State.

Approved, July 25, 1866.

No. 54. Franchise in the District of Columbia

January 8, 1867

A BILL to regulate the elective franchise in the District of Columbia was introduced in the Senate, December 4, 1865, by Wade of Ohio, and reported with amendments on the 20th. January 10, 1866, the bill was recommitted, and on the 12th again reported with an amendment. It was not taken up until June 28, when further consideration was postponed until December. The bill was taken up December 10, and on the 13th passed the Senate, the vote being 32 to 13. On the 14th the bill passed the House by a vote of 127 to 46, 18 not voting. January 7, 1867, President Johnson vetoed the bill. The bill was passed over the veto by the Senate on the 7th, by a vote of 29 to 10, and by the House on the 8th, by a vote of 112 to 38, 41 not voting.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XIV, 375, 376. For the proceedings see the *House and Senate Journals*, 39th Cong., 2d Sess., and the *Cong. Globe*. A minority report in the House, December 19, 1865, is *House Report 2*, 39th Cong., 1st Sess.

AN ACT to regulate the elective franchise in the District of Columbia.

Be it enacted . . ., That, from and after the passage of this act, each and every male person, excepting paupers and persons under guardianship, of the age of twenty-one years and upwards, who has not been convicted of any infamous crime or offence, and excepting persons who may have voluntarily given aid and comfort to the rebels in the late rebellion, and who shall have been born or naturalized in the United States, and who shall have resided in the said District for the period of one year, and three months in the ward or election precinct in which he shall offer to vote next preceding any election therein, shall be entitled to the elective franchise, and shall be deemed an elector and entitled to vote at any election in said District, without any distinction on account of color or race.

SEC. 2. *And be it further enacted*, That any person whose duty it shall be to receive votes at any election within the District of Columbia, who shall wilfully refuse to receive, or who shall wilfully reject, the vote of any person entitled to such right under this act, shall be liable to an action of tort by the

person injured, and shall be liable, on indictment and conviction, if such act was done knowingly, to a fine not exceeding five thousand dollars, or to imprisonment for a term not exceeding one year in the jail of said District, or to both.

SEC. 3. *And be it further enacted*, That if any person or persons shall wilfully interrupt or disturb any such elector in the exercise of such franchise, he or they shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined in any sum not to exceed one thousand dollars, or be imprisoned in the jail in said District for a period not to exceed thirty days, or both, at the discretion of the court.

SEC. 4. *And be it further enacted*, That it shall be the duty of the several courts having criminal jurisdiction in said District to give this act in special charge to the grand jury at the commencement of each term of the court next preceding the holding of any general or city election in said District.

[The remaining sections relate to the use of a check-list, punishment of bribery or intimidation, &c.]

No. 55. Elective Franchise in the Territories

January 31, 1867

A BILL to amend the organic acts of the several Territories was introduced in the House, April 24, 1866, by James M. Ashley of Ohio, and referred to the Committee on Territories. The bill was reported without amendment on the 26th, recommitted, and again reported May 3. A substitute offered by Ashley May 15, the ninth section of which prohibited the denial of the elective franchise on account of race or color, was agreed to by a vote of 79 to 43, 61 not voting, a motion to strike out the ninth section being defeated by a vote of 36 to 76, 72 not voting. The bill was reported with amendments in the Senate May 31, but went over until the next session. January 10, 1867, a substitute in the words of the act following, offered by Wade of Ohio, was agreed to. The Senate amendment was accepted by the House by a vote of 104 to 38, 49 not voting. The bill became a law without the President's approval.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XIV, 379. For the proceedings see the *House and Senate Journals*, 39th Cong., 1st and 2d Sess., and the *Cong. Globe*. An abstract of the House bill of May 3 is in the *Globe* for that date; Ashley's substitute, *ibid.*, May 15.

An Act to regulate the elective Franchise in the Territories of the United States.

Be it enacted . . ., That from and after the passage of this act, there shall be no denial of the elective franchise in any of the Territories of the United States, now, or hereafter to be organized, to any citizen thereof, on account of race, color, or previous condition of servitude; and all acts or parts of acts, either of Congress or the Legislative Assemblies of said Territories, inconsistent with the provisions of this act are hereby declared null and void.

No. 56. First Reconstruction Act

March 2, 1867

THE question of the restoration of the insurrectionary States to a place in the Union early engaged the attention of Congress, and many resolutions setting forth the opinions of their framers as to the way in which such restoration should be brought about, were submitted. A concurrent resolution of March 2, 1866, declared "that, in order to close agitation upon a question which seems likely to disturb the action of the government, as well as to quiet the uncertainty which is agitating the minds of the people of the eleven States which have been declared to be in rebellion, no senator or representative shall be admitted into either branch of Congress from any of said States until Congress shall have declared such State entitled to such representation." The majority report of the Joint Committee on Reconstruction was submitted June 18, 1866, and the minority report four days later. A bill to reconstruct North Carolina was introduced by Thaddeus Stevens December 13. February 6, 1867, however, Stevens reported from the joint committee a general reconstruction bill. On the 13th a substitute offered by Stevens was agreed to, and the bill passed the House, the vote being 109 to 55, 26 not voting. An amendment submitted by James G. Blaine of Maine, providing that when Congress should have approved the Constitution of any State conferring suffrage in accordance with the Fourteenth Amendment, the other sections of the bill should become inoperative, was rejected. In the meantime the Fourteenth Amendment had been rejected by all the seceding States except Tennessee. The Blaine amendment, offered by Sherman in the Senate, was accepted by that house, and the amended bill passed, February 16, by a vote of 29 to 10. On the 19th the House, by a vote of 73 to 98, refused to concur, but the next day receded from its disagreement, and concurred in the amendments of the Sen-

ate, with the addition of amendments embracing section 6 and the proviso of section 5 of the act as passed. The bill was vetoed by President Johnson March 2, but was promptly passed over the veto the same day, the vote in the House being 138 to 51, 3 not voting, and in the Senate 35 to 11. An act of January 22 had provided "for the meeting of the fortieth and all succeeding Congresses immediately after the adjournment of the preceding Congress," while another act of February 21 directed the clerk of the House to include in the roll of representatives for the next Congress members from those States only which had been represented in the preceding Congress. A joint resolution of March 30 appropriated $500,000 for the expenses of executing the various reconstruction acts.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XIV, 428, 429. For the proceedings see the *House and Senate Journals*, 39th Cong., 2d Sess., and the *Cong. Globe*. The bill reported February 6 is the same as the act as passed, except the fifth and sixth sections, which were added as amendments. For the texts of the more important resolutions on reconstruction, with the action upon them, see McPherson, *Reconstruction*, 109–114, 183–187. Johnson's message of July 20, 1867, transmitting a report of a cabinet meeting, is in Richardson, *Messages and Papers of the Presidents*, VI, 527–531. The documentary literature is extensive. The report of the Joint Committee on Reconstruction is *House Report 30*, 39th Cong., 1st Sess. On the early disturbances in the South see *House Exec. Doc. 96* and *House Report 101*, 39th Cong., 1st Sess.; *House Exec. Docs. 61, 68, and 72* and *House Report 16*, 39th Cong., 2d Sess. The most important orders, etc., relating to military reconstruction, are in *Senate Exec. Doc. 14*, 40th Cong., 1st Sess.; see also *Senate Exec. Doc. 14*, and *Senate Report 14*, 38th Cong., 1st Sess.; *House Report 23*, 39th Cong., 2d Sess.; *House Exec. Doc. 342*, 40th Cong., 2d Sess. The State constitutions of the reconstruction period are in Poore, *Charters and Constitutions*. On political conditions see *House Exec. Doc. 131*, *Senate Exec. Doc. 43*, *Senate Misc. Doc. 62*, and *Senate Report 112*, 39th Cong., 1st Sess.; *House Exec. Docs. 20 and 34* and *House Misc. Docs. 29 and 53*, 40th Cong., 1st Sess.; *House Exec. Docs. 53 and 276* and *Senate Exec. Doc. 53*, 40th Cong., 2d Sess.; *Senate Exec. Doc. 13*, 41st Cong., 2d Sess. On the constitutional question see particularly *Mississippi v. Johnson*, 4 *Wallace*, 475; *Georgia v. Stanton*, 6 *ibid.*, 51; *Texas v. White*, 7 *ibid.*, 200. Important general references are: Johnston in *Lalor's Cyclopædia*, III, 540–556; Dunning, *Essays*, 136–252; *Morse, Lincoln*, II, chap. 8; Hart, *Chase*, chap. 13; Storey, *Sumner*, chaps. 16 and 18; McCall, *Stevens*, chap. 16; Cox, *Three Decades*, chaps. 19–23; Chadsey, *Struggle between President Johnson and Congress over Reconstruction;* Burgess, *Reconstruction and the Constitution;* Barnes, *History of the 39th Congress;* Blaine, *Twenty Years of Congress*, II, chaps. 3–12; Pierce, *Sumner*, IV, chap. 51.

An Act to provide for the more efficient Government of the Rebel States.

WHEREAS no legal State governments or adequate protection for life or property now exists in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas; and whereas it is necessary that peace and good order should be enforced in said States until loyal and republican State governments can be legally established: Therefore,

Be it enacted . . ., That said rebel States shall be divided into military districts and made subject to the military authority of the United States as hereinafter prescribed, and for that purpose Virginia shall constitute the first district; North Carolina and South Carolina the second district; Georgia, Alabama, and Florida the third district; Mississippi and Arkansas the fourth district; and Louisiana and Texas the fifth district.

SEC. 2. *And be it further enacted*, That it shall be the duty of the President to assign to the command of each of said districts an officer of the army, not below the rank of brigadier-general, and to detail a sufficient military force to enable such officer to perform his duties and enforce his authority within the district to which he is assigned.

SEC. 3. *And be it further enacted*, That it shall be the duty of each officer assigned as aforesaid, to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish, or cause to be punished, all disturbers of the public peace and criminals; and to this end he may allow local civil tribunals to take jurisdiction of and to try offenders, or, when in his judgment it may be necessary for the trial of offenders, he shall have power to organize military commissions or tribunals for that purpose, and all interference under color of State authority with the exercise of military authority under this act, shall be null and void.

SEC. 4. *And be it further enacted*, That all persons put under

military arrest by virtue of this act shall be tried without unnecessary delay, and no cruel or unusual punishment shall be inflicted, and no sentence of any military commission or tribunal hereby authorized, affecting the life or liberty of any person, shall be executed until it is approved by the officer in command of the district, and the laws and regulations for the government of the army shall not be affected by this act, except in so far as they conflict with its provisions: *Provided*, That no sentence of death under the provisions of this act shall be carried into effect without the approval of the President.

SEC. 5. *And be it further enacted*, That when the people of any one of said rebel States shall have formed a constitution of government in conformity with the Constitution of the United States in all respects, framed by a convention of delegates elected by the male citizens of said State, twenty-one years old and upward, of whatever race, color, or previous condition, who have been resident in said State for one year previous to the day of such election, except such as may be disfranchised for participation in the rebellion or for felony at common law, and when such constitution shall provide that the elective franchise shall be enjoyed by all such persons as have the qualifications herein stated for electors of delegates, and when such constitution shall be ratified by a majority of the persons voting on the question of ratification who are qualified as electors for delegates, and when such constitution shall have been submitted to Congress for examination and approval, and Congress shall have approved the same, and when said State, by a vote of its legislature elected under said constitution, shall have adopted the amendment to the Constitution of the United States, proposed by the Thirty-ninth Congress, and known as article fourteen, and when said article shall have become a part of the Constitution of the United States said State shall be declared entitled to representation in Congress, and senators and representatives shall be admitted therefrom on their taking the oath prescribed by law, and then and thereafter the preceding sections of this act shall be inoperative in said State: *Provided*, That no person

excluded from the privilege of holding office by said proposed amendment to the Constitution of the United States, shall be eligible to election as a member of the convention to frame a constitution for any of said rebel States, nor shall any such person vote for members of such convention.

SEC. 6. *And be it further enacted*, That, until the people of said rebel States shall be by law admitted to representation in the Congress of the United States, any civil governments which may exist therein shall be deemed provisional only, and in all respects subject to the paramount authority of the United States at any time to abolish, modify, control, or supersede the same; and in all elections to any office under such provisional governments all persons shall be entitled to vote, and none others, who are entitled to vote, under the provisions of the fifth section of this act; and no persons shall be eligible to any office under any such provisional governments who would be disqualified from holding office under the provisions of the third *article* of said constitutional amendment.

No. 57. Tenure of Office Act

March 2, 1867

A BILL "to regulate the tenure of offices" was introduced in the Senate, December 3, 1866, the first day of the session, by George H. Williams of Oregon, and referred to the Joint Select Committee on Retrenchment. On the 10th a substitute amendment was reported by George F. Edmunds of Vermont, who also offered the next day a further amendment, being the last five sections of the act. The amended bill passed the Senate on the 18th by a vote of 29 to 9, 14 not voting. The House, by a vote of 82 to 63, 46 not voting, added an amendment striking out the clause excepting cabinet officers from the operation of the act, the vote on the passage of the amended bill being 111 to 38, 42 not voting. The Senate refused to concur, but the insistence of the House on its principal amendment forced the Senate to agree to the compromise contained in the first section of the act. The report of the conference committee was accepted by the Senate, February 18, by a vote of 22 to 10, and by the House the following day by a vote of 112 to 41, 37 not

voting. March 2 the bill was vetoed by President Johnson, but was passed over the veto the same day, the vote in the Senate being 35 to 11, 6 not voting, and in the House 138 to 51, 3 not voting. Sections 1 and 2 of the act were repealed by an act of April 5, 1859, and the remainder by an act of March 3, 1887.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XIV, 430–432. For the proceedings see the *House and Senate Journals*, 39th Cong., 2d Sess., and the *Cong. Globe*. See also *Senate Exec. Doc. 9*, 40th Cong., Special Sess.

An Act regulating the Tenure of certain Civil Offices.

Be it enacted . . ., That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office, and shall become duly qualified to act therein, is, and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided: *Provided*, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster-General, and the Attorney-General, shall hold their offices respectively for and during the term of the President by whom they may have been appointed and for one month thereafter, subject to removal by and with the advice and consent of the Senate.

SEC. 2. *And be it further enacted*, That when any officer appointed as aforesaid, excepting judges of the United States courts, shall, during a recess of the Senate, be shown, by evidence satisfactory to the President, to be guilty of misconduct in office, or crime, or for any reason shall become incapable or legally disqualified to perform its duties, in such case, and in no other, the President may suspend such officer and designate some suitable person to perform temporarily the duties of such office until the next meeting of the Senate, and until the case shall be acted upon by the Senate . . .; and in such case it shall be the duty of the President, within twenty days after the first day of such next meeting of the Senate, to report to the Senate such suspension, with the evidence and reasons for his action in the case, and the name of the person so designated to

perform the duties of such office. And if the Senate shall concur in such suspension and advise and consent to the removal of such officer, they shall so certify to the President, who may thereupon remove such officer, and, by and with the advice and consent of the Senate, appoint another person to such office. But if the Senate shall refuse to concur in such suspension, such officer so suspended shall forthwith resume the functions of his office, and the powers of the person so performing its duties in his stead shall cease, and the official salary and emoluments of such officer shall, during such suspension, belong to the person so performing the duties thereof, and not to the officer so suspended: *Provided, however*, That the President, in case he shall become satisfied that such suspension was made on insufficient grounds, shall be authorized, at any time before reporting such suspension to the Senate as above provided, to revoke such suspension and reinstate such officer in the performance of the duties of his office.

SEC. 3. *And be it further enacted*, That the President shall have power to fill all vacancies which may happen during the recess of the Senate, by reason of death or resignation, by granting commissions which shall expire at the end of their next session thereafter. And if no appointment, by and with the advice and consent of the Senate, shall be made to such office so vacant or temporarily filled as aforesaid during such next session of the Senate, such office shall remain in abeyance, without any salary, fees, or emoluments attached thereto, until the same shall be filled by appointment thereto, by and with the advice and consent of the Senate; and during such time all the powers and duties belonging to such office shall be exercised by such other officer as may by law exercise such powers and duties in case of a vacancy in such office.

SEC. 4. *And be it further enacted*, That nothing in this act contained shall be construed to extend the term of any office the duration of which is limited by law.

SEC. 5. *And be it further enacted*, That if any person shall, contrary to the provisions of this act, accept any appointment

to or employment in any office, or shall hold or exercise or attempt to hold or exercise, any such office or employment, he shall be deemed, and is hereby declared to be, guilty of a high misdemeanor, and, upon trial and conviction thereof, he shall be punished therefor by a fine not exceeding ten thousand dollars, or by imprisonment not exceeding five years, or both said punishments, in the discretion of the court.

SEC. 6. *And be it further enacted*, That every removal, appointment, or employment, made, had, or exercised, contrary to the provisions of this act, and the making, signing, sealing, countersigning, or issuing of any commission or letter of authority for or in respect to any such appointment or employment, shall be deemed, and are hereby declared to be, high misdemeanors, and, upon trial and conviction thereof, every person guilty thereof shall be punished by a fine not exceeding ten thousand dollars, or by imprisonment not exceeding five years, or both said punishments, in the discretion of the court: *Provided*, That the President shall have power to make out and deliver, after the adjournment of the Senate, commissions for all officers whose appointment shall have been advised and consented to by the Senate.

SEC. 7. *And be it further enacted*, That it shall be the duty of the Secretary of the Senate, at the close of each session thereof, to deliver to the Secretary of the Treasury, and to each of his assistants, and to each of the auditors, and to each of the comptrollers in the treasury, and to the treasurer, and to the register of the treasury, a full and complete list, duly certified, of all the persons who shall have been nominated to and rejected by the Senate during such session, and a like list of all the offices to which nominations shall have been made and not confirmed and filled at such session.

SEC. 8. *And be it further enacted*, That whenever the President shall, without the advice and consent of the Senate, designate, authorize, or employ any person to perform the duties of any office, he shall forthwith notify the Secretary of the Treasury thereof; and it shall be the duty of the Secretary of the

Treasury thereupon to communicate such notice to all the proper accounting and disbursing officers of his department.

SEC. 9. *And be it further enacted*, That no money shall be paid or received from the treasury, or paid or received from or retained out of any public moneys or funds of the United States, whether in the treasury or not, to or by or for the benefit of any person appointed to or authorized to act in or holding or exercising the duties or functions of any office contrary to the provisions of this act; nor shall any claim, account, voucher, order, certificate, warrant, or other instrument providing for or relating to such payment, receipt, or retention, be presented, passed, allowed, approved, certified, or paid by any officer of the United States, or by any person exercising the functions or performing the duties of any office or place of trust under the United States, for or in respect to such office, or the exercising or performing the functions or duties thereof; and every person who shall violate any of the provisions of this section shall be deemed guilty of a high misdemeanor, and, upon trial and conviction thereof, shall be punished therefor by a fine not exceeding ten thousand dollars, or by imprisonment not exceeding ten years, or both said punishments, in the discretion of the court.

No. 58. Act of Indemnity

March 2, 1867

BY an act of May 11, 1866, amending the *habeas corpus* act of March 3, 1863 [No. 32], orders from the President, the Secretary of War, or a military commander were declared to be a defence to suits on account of such acts. An act of February 5, 1867, gave authority to United States courts to issue the writ of *habeas corpus* in the case of any person restrained of liberty in violation of the Constitution or laws of the United States, and extended the appellate jurisdiction of the Supreme Court to all such cases; while the act of March 2, 1867, validated all proclamations and orders of the President respecting martial law, and acts done under them, from March 4, 1861, to July 4,

1866. The case of *Ex parte McCardle* raised the question of the legality of an arrest under the Civil Rights Act of March 2, 1867. The Supreme Court refused to dismiss the case and heard the appeal on its merits. To protect the reconstruction policy of Congress from judicial interference at this point, an act of March 27, 1868, passed over the veto, took away the right of appeal from the circuit court conferred by the act of February 5, 1867. A bill validating the proclamations of the President, etc., was introduced in the House, December 10, 1866, by Bingham of Ohio, and passed February 23, 1867, by a vote of 112 to 32, 46 not voting. The Senate passed the bill without amendment March 2, the vote being 36 to 8.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XIV, 432, 433. For the proceedings see the *House and Senate Journals*, 39th Cong., 2d Sess., and the *Cong. Globe*. For the case of *Ex parte McCardle* see 6 *Wallace*, 324; 7 *ibid.*, 512; see also *Jones v. Seward*, 40 *Barbour* (N.Y.), 563; 41 *ibid.*, 269; 26 *Howard's Practice Reports*, 433.

An Act to declare valid and conclusive certain Proclamations of the President, and Acts done in Pursuance thereof, or of his Orders, in the Suppression of the late Rebellion against the United States.

Be it enacted . . ., That all acts, proclamations, and orders of the President of the United States, or acts done by his authority or approval after the fourth of March, anno Domini eighteen hundred and sixty-one, and before the first day of July, anno Domini eighteen hundred and sixty-six, respecting martial law, military trials by courts-martial or military commissions, or the arrest, imprisonment and trial of persons charged with participation in the late rebellion against the United States, or as aiders or abettors thereof, or as guilty of any disloyal practice in aid thereof, or of any violation of the laws or usages of war, or of affording aid and comfort to rebels against the authority of the United States, and all proceedings and acts done or had by courts-martial or military commissions, or arrests and imprisonments made in the premises by any person by the authority of the orders or proclamations of the President, made as aforesaid, or in aid thereof, are hereby approved in all respects, legalized and made valid, to the same extent and with the same effect as if said orders and proclamations had been issued and made,

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and said arrests, imprisonments, proceedings, and acts had been done under the previous express authority and direction of the Congress of the United States, and in pursuance of a law thereof previously enacted and expressly authorizing and directing the same to be done. And no civil court of the United States, or of any State, or of the District of Columbia, or of any district or territory of the United States, shall have or take jurisdiction of, or in any manner reverse any of the proceedings had or acts done as aforesaid, nor shall any person be held to answer in any of said courts for any act done or omitted to be done in pursuance or in aid of any of said proclamations or orders, or by authority or with the approval of the President within the period aforesaid, and respecting any of the matters aforesaid; and all officers and other persons in the service of the United States, or who acted in aid thereof, acting in the premises shall be held prima facie to have been authorized by the President; and all acts and parts of acts heretofore passed, inconsistent with the provisions of this act, are hereby repealed.

Approved, March 2, 1867.

No. 59. Command of the Army

March 2, 1867

Section 2 of the army appropriation act of March 2, 1867, virtually deprived the President, in certain cases, of the command of the army. The constitutionality of the provision was debated at some length, but an amendment offered in the Senate, February 26, by Reverdy Johnson of Maryland, to strike out the section was lost by a vote of 8 to 28, and other motions to the same effect failed of support. Sections 5 and 6 were added to the bill by the Senate. President Johnson approved the bill in order not to defeat the appropriations, but he entered his protest against the army provision. The section relating to the militia was repealed by acts of January 14 and March 3, 1869.

References. — *Text* in *U.S. Statutes at Large*, XIV, 486, 487. For the proceedings see the *House and Senate Journals*, 39th Cong., 2d Sess., and the *Cong. Globe*. The important discussion was in the Senate.

An Act making appropriations for the support of the army for the year ending June thirtieth, eighteen hundred and sixty-eight, and for other purposes.

* * * * * * *

SEC. 2. *And be it further enacted*, That the headquarters of the General of the army of the United States shall be at the city of Washington, and all orders and instructions relating to military operations issued by the President or Secretary of War shall be issued through the General of the army, and, in case of his inability, through the next in rank. The General of the army shall not be removed, suspended, or relieved from command, or assigned to duty elsewhere than at said headquarters, except at his own request, without the previous approval of the Senate; and any orders or instructions relating to military operations issued contrary to the requirements of this section shall be null and void; and any officer who shall issue orders or instructions contrary to the provisions of this section shall be deemed guilty of a misdemeanor in office; and any officer of the army who shall transmit, convey, or obey any orders or instructions so issued contrary to the provisions of this section, knowing that such orders were so issued, shall be liable to imprisonment for not less than two nor more than twenty years, upon conviction thereof in any court of competent jurisdiction.

* * * * * * *

SEC. 5. *And be it further enacted*, That it shall be the duty of the officers of the army and navy, and of the Freedmen's Bureau, to prohibit and prevent whipping or maiming of the person, as a punishment for any crime, misdemeanor, or offence, by any pretended civil or military authority in any State lately in rebellion until the civil government of such State shall have been restored, and shall have been recognized by the Congress of the United States.

SEC. 6. *And be it further enacted*, That all militia forces now organized or in service in either of the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Louisiana,

Mississippi, and Texas, be forthwith disbanded, and that the further organization, arming, or calling into service of the said militia forces, or any part thereof, is hereby prohibited under any circumstances whatever, until the same shall be authorized by Congress.

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APPROVED, March 2, 1867.

No. 60. Abolition of Peonage

March 2, 1867

THE annual report of the Commissioner of Indian Affairs for 1866 called attention to the evils of peonage in New Mexico, and urged Congress "to take the matter in hand and deal with it effectually." January 3, 1867, Sumner offered in the Senate a resolution directing the Committee on the Judiciary "to consider if any further legislation is needed to prevent the enslavement of Indians in New Mexico or any system of peonage there, and especially to prohibit the employment of the army of the United States in the surrender of persons claimed as peons." The resolution was referred to the Committee on Military Affairs. A bill to prohibit peonage, introduced January 26 by Wilson of Massachusetts, was referred to the same committee, which reported the bill on the 28th with an amendment. February 19 a substitute offered by Wilson was agreed to and the bill passed. The bill passed the House March 2.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XIV, 546. For the proceedings see the *House and Senate Journals*, 39th Cong., 2d Sess., and the *Cong. Globe*. The proceedings in the House are unimportant.

An Act to abolish and forever prohibit the System of Peonage in the Territory of New Mexico and other Parts of the United States.

Be it enacted . . ., That the holding of any person to service or labor under the system known as peonage is hereby declared to be unlawful, and the same is hereby abolished and forever prohibited in the Territory of New Mexico, or in any other Territory or State of the United States; and all laws, resolutions, orders, regulations, or usages of the Territory of New Mexico, or of any other Territory or State of the United States, which have heretofore established, maintained, or enforced, or by virtue

of which any attempt shall hereafter be made to establish, maintain, or enforce, directly or indirectly, the voluntary or involuntary service or labor of any persons as peons, in liquidation of any debt or obligation, or otherwise, be, and the same are hereby, declared null and void; and any person or persons who shall hold, arrest, or return, or cause to be held, arrested, or returned, or in any manner aid in the arrest or return of any person or persons to a condition of peonage, shall, upon conviction, be punished by fine not less than one thousand nor more than five thousand dollars, or by imprisonment not less than one nor more than five years, or both, at the discretion of the court.

SEC. 2. *And be it further enacted*, That it shall be the duty of all persons in the military or civil service in the Territory of New Mexico to aid in the enforcement of the foregoing section of this act; and any person or persons who shall obstruct or attempt to obstruct, or in any way interfere with, or prevent the enforcement of this act, shall be liable to the pains and penalties hereby provided; and any officer or other person in the military service of the United States who shall so offend, directly or indirectly, shall, on conviction before a court-martial, be dishonorably dismissed the service of the United States, and shall thereafter be ineligible to reappointment to any office of trust, honor, or profit under the government.

APPROVED, March 2, 1867.

No. 61. Payments to Disloyal Persons

March 2, 1867

A BILL to prohibit payments to disloyal persons was introduced in the House, December 20, 1866, by Columbus Delano of Ohio, and passed the same day. February 23, 1867, the Senate added the proviso of the act as an amendment. A conference committee settled the final form of the bill.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XIV, 571. For the proceedings see the *House and Senate Journals*, 39th Cong., 2d Sess., and the *Cong. Globe*. There was little discussion of the merits of the bill.

Joint Resolution prohibiting Payment by any Officer of the Government to any Person not known to have been opposed to the Rebellion and in favor of its Suppression.

Resolved . . ., That until otherwise ordered it shall be unlawful for any officer of the United States government to pay any account, claim, or demand against said government, which accrued or existed prior to the thirteenth day of April, A.D. eighteen hundred and sixty-one, in favor of any person who promoted, encouraged, or in any manner sustained the late rebellion; or in favor of any person who, during said rebellion, was not known to be opposed thereto, and distinctly in favor of its suppression; and no pardon heretofore granted, or hereafter to be granted, shall authorize the payment of such account, claim, or demand, until this resolution is modified or repealed: *Provided*, That this resolution shall not be construed to prohibit the payment of claims founded upon contracts made by any of the departments, where such claims were assigned or contracted to be assigned prior to April first, eighteen hundred and sixty-one, to creditors of said contractors, loyal citizens of loyal States, in payment of debts incurred prior to March first, eighteen hundred and sixty-one.

Approved, March 2, 1867.

No. 62. Second Reconstruction Act

March 23, 1867

By a resolution of March 7, 1867, the House Committee on the Judiciary were instructed "to report a bill declaring who shall call conventions for the reorganization of the rebel States, and providing for the registration of voters within said rebel States, and all elections for members of said conventions, or for the adoption or rejection of constitutions formed by said conventions, or for the choice of public officers, State and municipal, until the constitutions of said States shall have been approved by Congress, shall be by ballot." A bill in accordance with the resolution was reported March 11, and passed the same day, the vote being 117 to 27, 16 not voting. The Senate Committee on the

Judiciary reported a substitute, which, with further amendments, passed that body on the 16th by a vote of 38 to 2. To the bill as thus amended the House added further amendments, the principal of which required the approval by a majority of the registered voters of the constitution submitted for ratification. The bill received its final form from a conference committee. March 23 President Johnson vetoed the bill, but it was passed over the veto the same day, in the House by a vote of 114 to 25, 25 not voting, and in the Senate by a vote of 40 to 7.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XV, 2–4. For the proceedings see the *House and Senate Journals*, 40th Cong., 1st Sess., and the *Cong. Globe*. The texts of the numerous amendments submitted are in the *Globe*.

An Act supplementary to an Act entitled "An Act to provide for the more efficient Government of the Rebel States," passed March second, eighteen hundred and sixty-seven, and to facilitate Restoration.

Be it enacted . . ., That before the first day of September, eighteen hundred and sixty-seven, the commanding general in each district defined by an act entitled "An act to provide for the more efficient government of the rebel States," passed March second, eighteen hundred and sixty-seven, shall cause a registration to be made of the male citizens of the United States, twenty-one years of age and upwards, resident in each county or parish in the State or States included in his district, which registration shall include only those persons who are qualified to vote for delegates by the act aforesaid, and who shall have taken and subscribed the following oath or affirmation: "I, —— ——, do solemnly swear (or affirm), in the presence of Almighty God, that I am a citizen of the State of ——; that I have resided in said State for —— months next preceding this day, and now reside in the county of ——, or the parish of ——, in said State (as the case may be); that I am twenty-one years old; that I have not been disfranchised for participation in any rebellion or civil war against the United States, or for felony committed against the laws of any State or of the United States; that I have never been a member of any State legislature, nor held any executive or judicial office in any State, and afterwards

engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I have never taken an oath as a member of Congress of the United States, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, and afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I will faithfully support the Constitution and obey the laws of the United States, and will, to the best of my ability, encourage others so to do, so help me God"; which oath or affirmation may be administered by any registering officer.

SEC. 2. *And be it further enacted*, That after the completion of the registration hereby provided for in any State, at such time and places therein as the commanding general shall appoint and direct, of which at least thirty days' public notice shall be given, an election shall be held of delegates to a convention for the purpose of establishing a constitution and civil government for such State loyal to the Union, said convention in each State, except Virginia, to consist of the same number of members as the most numerous branch of the State legislature of such State in the year eighteen hundred and sixty, to be apportioned among the several districts, counties, or parishes of such State by the commanding general, giving to each representation in the ratio of voters registered as aforesaid as nearly as may be. The convention in Virginia shall consist of the same number of members as represented the territory now constituting Virginia in the most numerous branch of the legislature of said State in the year eighteen hundred and sixty, to be apportioned as aforesaid.

SEC. 3. *And be it further enacted*, That at said election the registered voters of each State shall vote for or against a convention to form a constitution therefor under this act. . . . If a majority of the votes given on that question shall be for a convention, then such convention shall be held as hereinafter provided; but if a majority of said votes shall be against a

convention, then no such convention shall be held under this act: *Provided*, That such convention shall not be held unless a majority of all such registered voters shall have voted on the question of holding such convention.

SEC. 4. *And be it further enacted*, That the commanding general of each district shall appoint as many boards of registration as may be necessary, consisting of three loyal officers or persons, to make and complete the registration, superintend the election, and make return to him of the votes, lists of voters, and of the persons elected as delegates by a plurality of the votes cast at said election; and upon receiving said returns he shall open the same, ascertain the persons elected as delegates, according to the returns of the officers who conducted said election, and make proclamation thereof; and if a majority of the votes given on that question shall be for a convention, the commanding general, within sixty days from the date of election, shall notify the delegates to assemble in convention, at a time and place to be mentioned in the notification, and said convention, when organized, shall proceed to frame a constitution and civil government according to the provisions of this act, and the act to which it is supplementary; and when the same shall have been so framed, said constitution shall be submitted by the convention for ratification to the persons registered under the provisions of this act at an election to be conducted by the officers or persons appointed or to be appointed by the commanding general, as hereinbefore provided, and to be held after the expiration of thirty days from the date of notice thereof, to be given by said convention; and the returns thereof shall be made to the commanding general of the district.

SEC. 5. *And be it further enacted*, That if, according to said returns, the constitution shall be ratified by a majority of the votes of the registered electors qualified as herein specified, cast at said election, at least one half of all the registered voters voting upon the question of such ratification, the president of the convention shall transmit a copy of the same, duly certified, to the President of the United States, who shall forthwith

transmit the same to Congress, if then in session, and if not in session, then immediately upon its next assembling; and if it shall moreover appear to Congress that the election was one at which all the registered and qualified electors in the State had an opportunity to vote freely and without restraint, fear, or the influence of fraud, and if the Congress shall be satisfied that such constitution meets the approval of a majority of all the qualified electors in the State, and if the said constitution shall be declared by Congress to be in conformity with the provisions of the act to which this is supplementary, and the other provisions of said act shall have been complied with, and the said constitution shall be approved by Congress, the State shall be declared entitled to representation, and senators and representatives shall be admitted therefrom as therein provided.

SEC. 6. [Elections to be by ballot; officers to take oath prescribed by act of July 2, 1862, &c.]

SEC. 7. [Expenses of commanding general, how paid.]

SEC. 8. *And be it further enacted*, That the convention for each State shall prescribe the fees, salary, and compensation to be paid to all delegates and other officers and agents herein authorized or necessary to carry into effect the purposes of this act not herein otherwise provided for, and shall provide for the levy and collection of such taxes on the property in such State as may be necessary to pay the same.

SEC. 9. *And be it further enacted*, That the word "article," in the sixth section of the act to which this is supplementary, shall be construed to mean "section."

No. 63. Treaty with Russia for the Cession of Alaska

March 30, 1867

BY the fourth article of the treaty of 1824 between the United States and Russia, it was agreed that for ten years the vessels of both powers might fish and trade in the interior waters on the northwest coast of North America,

both north and south of 54° 40′. Negotiations for the continuance of the agreement failed, and the encroachments of American seamen in Russian territory were from time to time the subject of diplomatic correspondence. The friendly behavior of Russia toward the United States during the Civil War, though joined, doubtless, with an unwillingness on the part of the United States to see the power of Russia in North America increase, led to an acceptance of the offer of Russia to sell Alaska. The treaty was communicated to the Senate July 16, 1867, and the formal transfer of the territory was made October 18. Copies of the treaty and correspondence were laid before the House February 17, 1868. The debate in the House raised the question of the constitutional relation of the House to treaties involving the appropriation of money. The preamble of the bill making the appropriation, as it passed the House, asserted that the consent of that body was necessary to the ratification of such treaties. The Senate refused to accept the bill in that form, and the preamble was modified. The appropriation bill became law July 27. Another act of the same date extended the laws of the United States relating to customs, commerce, and navigation over Alaska, and established it as a collection district.

References. — *Text* in *U.S. Statutes at Large*, XV, 539–543. For the documents and correspondence see *Senate Exec. Doc. 17*, 40th Cong., 1st Sess.; *House Exec. Docs. 125 and 177*, 40th Cong., 2d Sess. Banks's report in favor of ratification is *House Report 37*, 40th Cong., 2d Sess. For the House proceedings see the *Cong. Globe*, 40th Cong., 2d Sess.

The United States of America and His Majesty the Emperor of all the Russias, being desirous of strengthening, if possible, the good understanding which exists between them, have, for that purpose, appointed as their Plenipotentiaries, the President of the United States, William H. Seward, Secretary of State; and His Majesty the Emperor of all the Russias, the Privy Counsellor Edward [*Edouard*] de Stoeckl, his Envoy Extraordinary and Minister Plenipotentiary to the United States;

And the said Plenipotentiaries, having exchanged their full powers, which were found to be in due form, have agreed upon and signed the following articles:

Article I.

His Majesty the Emperor of all the Russias agrees to cede to the United States, by this convention, immediately upon the exchange of the ratifications thereof, all the territory and domin-

ion now possessed by his said Majesty on the continent of America and in the adjacent islands, the same being contained within the geographical limits herein set forth, to wit: The eastern limit is the line of demarcation between the Russian and the British possessions in North America, as established by the convention between Russia and Great Britain, of February 28–16, 1825, and described in Articles III and IV of said convention, in the following terms:

"Commencing from the southernmost point of the island called Prince of Wales Island, which point lies in the parallel of 54 degrees 40 minutes north latitude, and between the 131st and 133d degree of west longitude, (meridian of Greenwich,) the said line shall ascend to the north along the channel called Portland Channel, as far as the point of the continent where it strikes the 56th degree of north latitude; from this last-mentioned point, the line of demarcation shall follow the summit of the mountains situated parallel to the coast, as far as the point of intersection of the 141st degree of west longitude, (of the same meridian;) and finally, from the said point of intersection, the said meridian line of the 141st degree, in its prolongation as far as the Frozen Ocean.

"IV. With reference to the line of demarcation laid down in the preceding article, it is understood —

"1st. That the island called Prince of Wales Island shall belong wholly to Russia," (now, by this cession to the United States.)

"2d. That whenever the summit of the mountains which extend in a direction parallel to the coast from the 56th degree of north latitude to the point of intersection of the 141st degree of west longitude shall prove to be at the distance of more than ten marine leagues from the ocean, the limit between the British possessions and the line of coast which is to belong to Russia as above mentioned, (that is to say, the limit to the possessions ceded by this convention,) shall be formed by a line parallel to the winding of the coast, and which shall never exceed the distance of ten marine leagues therefrom."

The western limit within which the territories and dominion conveyed are contained passes through a point in Behring's Straits on the parallel of sixty-five degrees thirty minutes north latitude, at its intersection by the meridian which passes midway between the islands of Krusenstern or Ignalook, and the island of Ratmanoff, or Noonarbook, and proceeds due north without limitation, into the same Frozen Ocean. The same western limit, beginning at the same initial point, proceeds thence in a course nearly southwest, through Behring's Straits and Behring's Sea, so as to pass midway between the northwest point of the island of St. Lawrence and the southeast point of Cape Choukotski, to the meridian of one hundred and seventy-two west longitude; thence, from the intersection of that meridian, in a southwesterly direction, so as to pass midway between the island of Attou and the Copper Island of the Kormandorski couplet or group, in the North Pacific Ocean, to the meridian of one hundred and ninety-three degrees west longitude, so as to include in the territory conveyed the whole of the Aleutian Islands east of that meridian.

ARTICLE II.

In the cession of territory and dominion made by the preceding article are included the right of property in all public lots and squares, vacant lands, and all public buildings, fortifications, barracks, and other edifices which are not private individual property. It is, however, understood and agreed, that the churches which have been built in the ceded territory by the Russian Government, shall remain the property of such members of the Greek Oriental Church resident in the territory as may choose to worship therein. Any Government archives, papers, and documents relative to the territory and dominion aforesaid, which may now be existing there, will be left in the possession of the agent of the United States; but an authenticated copy of such of them as may be required, will be, at all times, given by the United States to the Russian Government, or to such Russian officers or subjects as they may apply for.

ARTICLE III.

The inhabitants of the ceded territory, according to their choice, reserving their natural allegiance, may return to Russia within three years; but if they should prefer to remain in the ceded territory, they, with the exception of uncivilized native tribes, shall be admitted to the enjoyment of all the rights, advantages, and immunities of citizens of the United States, and shall be maintained and protected in the free enjoyment of their liberty, property, and religion. The uncivilized tribes will be subject to such laws and regulations as the United States may from time to time adopt in regard to aboriginal tribes of that country.

ARTICLE IV.

His Majesty, the Emperor of all the Russias shall appoint, with convenient despatch, an agent or agents for the purpose of formally delivering to a similar agent or agents, appointed on behalf of the United States, the territory, dominion, property, dependencies, and appurtenances which are ceded as above, and for doing any other act which may be necessary in regard thereto. But the cession, with the right of immediate possession, is nevertheless to be deemed complete and absolute on the exchange of ratifications, without waiting for such formal delivery.

ARTICLE V.

Immediately after the exchange of the ratifications of this convention, any fortifications or military posts which may be in the ceded territory shall be delivered to the agent of the United States, and any Russian troops which may be in the territory shall be withdrawn as soon as may be reasonably and conveniently practicable.

ARTICLE VI.

In consideration of the cession aforesaid, the United States agree to pay at the Treasury in Washington, within ten months after the exchange of the ratifications of this convention, to the

diplomatic representative or other agent of His Majesty the Emperor of all the Russias, duly authorized to receive the same, seven million two hundred thousand dollars in gold. The cession of territory and dominion herein made is hereby declared to be free and unincumbered by any reservations, privileges, franchises, grants, or possessions, by any associated companies, whether corporate or incorporate, Russian or any other, or by any parties except merely private individual property-holders; and the cession hereby made conveys all the rights, franchises, and privileges now belonging to Russia in the said territory or dominion, and appurtenances thereto.

ARTICLE VII.

When this convention shall have been duly ratified by the President of the United States, by and with the advice and consent of the Senate, on the one part, and, on the other, by His Majesty the Emperor of all the Russias, the ratifications shall be exchanged at Washington within three months from the date hereof, or sooner if possible.

In faith whereof the respective Plenipotentiaries have signed this convention, and thereto affixed the seals of their arms.

Done at Washington the thirtieth day of March, in the year of our Lord one thousand eight hundred and sixty-seven.

[SEAL.] WILLIAM H. SEWARD.
[SEAL.] EDOUARD DE STOECKL.

No. 64. Third Reconstruction Act

July 19, 1867

THE difficulties encountered by the military commanders in enforcing the acts of March 2 and 23, 1867, especially in regard to the oath prescribed in the second of the two acts, led to the issue on June 20, through the Adjutant General's office, and with the approval of all the members of the Cabinet except Stanton, of instructions setting forth the view of the Executive as to the meaning and scope of the acts in question. From the standpoint of Congress, the instructions were a serious limitation on the effectiveness of the acts.

A bill to interpret and give effect to the reconstruction acts of March 2 and 23 was reported in the Senate, July 8, by Trumbull of Illinois, from the Committee on the Judiciary, but was laid aside on the 11th in favor of a bill of similar purport which had passed the House. The Senate then substituted its own bill for the House bill, the bill in this form passing by a vote of 32 to 6. The bill received its final form from a conference committee. July 19 President Johnson vetoed the bill, but it was at once passed over the veto, in the House by a vote of 109 to 25, 37 not voting, and in the Senate by a vote of 30 to 6. A joint resolution of the same date appropriated $1,000,000 to carry into effect the reconstruction acts.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XV, 14–16. For the proceedings see the *House and Senate Journals*, 40th Cong., 1st Sess., and the *Cong. Globe*. For the opinions of Attorney General Stanbery, May 24 and June 12, see *Senate Exec. Doc. 14*, 40th Cong., 1st Sess. The executive instructions of June 20 are in Richardson, *Messages and Papers of the Presidents*, VI, 552–556.

An Act supplementary to an Act entitled "An Act to provide for the more efficient Government of the Rebel States," passed on the second day of March, eighteen hundred and seventy-seven, and the Act supplementary thereto, passed on the twenty-third day of March, eighteen hundred and seventy-seven.

Be it enacted . . ., That it is hereby declared to have been the true intent and meaning . . . [of the acts of March 2 and March 23, 1867] . . ., that the governments then existing in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas were not legal State governments; and that thereafter said governments, if continued, were to be continued subject in all respects to the military commanders of the respective districts, and to the paramount authority of Congress.

SEC. 2. *And be it further enacted*, That the commander of any district named in said act shall have power, subject to the disapproval of the General of the army of the United States, and to have effect till disapproved, whenever in the opinion of such commander the proper administration of said act shall require it, to suspend or remove from office, or from the performance of official duties and the exercise of official powers, any officer or

person holding or exercising, or professing to hold or exercise, any civil or military office or duty in such district under any power, election, appointment or authority derived from, or granted by, or claimed under, any so-called State or the government thereof, or any municipal or other division thereof, and upon such suspension or removal such commander, subject to the disapproval of the General as aforesaid, shall have power to provide from time to time for the performance of the said duties of such officer or person so suspended or removed, by the detail of some competent officer or soldier of the army, or by the appointment of some other person, to perform the same, and to fill vacancies occasioned by death, resignation, or otherwise.

SEC. 3. *And be it further enacted*, That the General of the army of the United States shall be invested with all the powers of suspension, removal, appointment, and detail granted in the preceding section to district commanders.

SEC. 4. *And be it further enacted*, That the acts of the officers of the army already done in removing in said districts persons exercising the functions of civil officers, and appointing others in their stead, are hereby confirmed: *Provided*, That any person heretofore or hereafter appointed by any district commander to exercise the functions of any civil office, may be removed either by the military officer in command of the district, or by the General of the army. And it shall be the duty of such commander to remove from office as aforesaid all persons who are disloyal to the government of the United States, or who use their official influence in any manner to hinder, delay, prevent, or obstruct the due and proper administration of this act and the acts to which it is supplementary.

SEC. 5. *And be it further enacted*, That the boards of registration provided for in the act . . . [of March 23, 1867] . . ., shall have power, and it shall be their duty before allowing the registration of any person, to ascertain, upon such facts or information as they can obtain, whether such person is entitled to be registered under said act, and the oath required by said act shall not be conclusive on such question, and no person

shall be registered unless such board shall decide that he is entitled thereto; and such board shall also have power to examine, under oath, (to be administered by any member of such board,) any one touching the qualification of any person claiming registration; but in every case of refusal by the board to register an applicant, and in every case of striking his name from the list as hereinafter provided, the board shall make a note or memorandum, which shall be returned with the registration list to the commanding general of the district, setting forth the grounds of such refusal or such striking from the list: *Provided*, That no person shall be disqualified as member of any board of registration by reason of race or color.

SEC. 6. *And be it further enacted*, That the true intent and meaning of the oath prescribed in said supplementary act is, (among other things,) that no person who has been a member of the legislature of any State, or who has held any executive or judicial office in any State, whether he has taken an oath to support the Constitution of the United States or not, and whether he was holding such office at the commencement of the rebellion, or had held it before, and who has afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof, is entitled to be registered or to vote; and the words "executive or judicial office in any State" in said oath mentioned shall be construed to include all civil offices created by law for the administration of any general law of a State, or for the administration of justice.

SEC. 7. *And be it further enacted*, That the time for completing the original registration provided for in said act may, in the discretion of the commander of any district, be extended to the first day of October, eighteen hundred and sixty-seven; and the boards of registration shall have power, and it shall be their duty, commencing fourteen days prior to any election under said act, and upon reasonable public notice of the time and place thereof, to revise, for a period of five days, the registration lists, and upon being satisfied that any person not entitled thereto has been registered, to strike the name of such person

from the list, and such person shall not be allowed to vote. And such board shall also, during the same period, add to such registry the names of all persons who at that time possess the qualifications required by said act who have not been already registered; and no person shall, at any time, be entitled to be registered or to vote by reason of any executive pardon or amnesty for any act or thing which, without such pardon or amnesty, would disqualify him from registration or voting.

SEC. 8. *And be it further enacted,* That section four of said last-named act shall be construed to authorize the commanding general named therein, whenever he shall deem it needful, to remove any member of a board of registration and to appoint another in his stead, and to fill any vacancy in such board.

SEC. 9. *And be it further enacted,* That all members of said boards of registration and all persons hereafter elected or appointed to office in said military districts, under any so-called State or municipal authority, or by detail or appointment of the district commanders, shall be required to take and to subscribe the oath of office prescribed by law for officers of the United States.

SEC. 10. *And be it further enacted,* That no district commander or member of the board of registration, or any of the officers or appointees acting under them, shall be bound in his action by any opinion of any civil officer of the United States.

SEC. 11. *And be it further enacted,* That all provisions of this act and of the acts to which this is supplementary shall be construed liberally, to the end that all the intents thereof may be fully and perfectly carried out.

No. 65. Act suspending Reduction of the Currency

February 4, 1868

A BILL to prohibit the further reduction of the currency was introduced in the House, November 21, 1867, by Ebon C. Ingersoll of Illinois, and referred to the Committee of Ways and Means. December 5 the committee was discharged from further consideration of the bill, and a new bill was reported by

Schenck of Ohio, and recommitted. The bill was reported without amendment on the 7th and passed, the vote being 127 to 32, 28 not voting. A substitute amendment was agreed to by the Senate January 9, 1868, and on the 15th the bill with further amendments passed, the vote being 33 to 4, 16 not voting. The bill received its final form from a conference committee. The bill was presented to the President January 23, and became law February 4 under the ten days rule.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XV, 34. For the proceedings see the *House and Senate Journals*, 40th Cong., 2d Sess., and the *Cong. Globe*. The financial situation was discussed at especial length in the Senate. See also *Senate Report 4*.

AN ACT to suspend further Reduction of the Currency.

Be it enacted . . ., That from and after the passage of this act, the authority of the Secretary of the Treasury to make any reduction of the currency, by retiring or cancelling United States notes, shall be, and is hereby, suspended; but nothing herein contained shall prevent the cancellation and destruction of mutilated United States notes, and the replacing of the same with notes of the same character and amount.

No. 66. Articles of Impeachment

March 2–3, 1868

DECEMBER 17, 1866, James M. Ashley of Ohio moved in the House to suspend the rules for the purpose of reporting from the Committee on Territories a resolution for the appointment of a select committee "to inquire whether any acts have been done by any officer of the Government of the United States which, in contemplation of the Constitution, are high crimes or misdemeanors, and whether said acts were designed or calculated to overthrow, subvert, or corrupt the Government of the United States, or any department thereof." The vote was 90 to 49, but two-thirds being necessary, the motion was lost. January 7, 1867, resolutions for the impeachment of President Johnson were offered by Benjamin F. Loan and John R. Kelso of Missouri, and referred, respectively, to the Committee on Reconstruction and the Committee on the Judiciary. On the same day Ashley, as a question of privilege, impeached Johnson of high crimes and misdemeanors, charging him "with a usurpation of power and violation of law" in having corruptly used the powers of ap-

pointment, pardon, and veto, "corruptly disposed of public property of the United States," and "corruptly interfered in elections, and committed acts which, in contemplation of the Constitution, are high crimes and misdemeanors." By a vote of 108 to 39 the charges were referred to the Committee on the Judiciary for investigation. February 28 the committee reported that, from lack of time, it had reached no conclusion. March 7 a resolution submitted by Ashley directed the continuance of the investigation, and on the 29th, on motion of Sidney Clarke of Kansas, the committee was requested to report at the first meeting of the House after the recess. November 25 George S. Boutwell of Massachusetts submitted the majority report of the committee. The report closed with a resolution that the President "be impeached for high crimes and misdemeanors." December 7, by a vote of 57 to 108, the resolution was disagreed to. The evidence taken by the Committee on the Judiciary, together with the correspondence between Johnson and Grant, was referred to the Committee on Reconstruction. February 21, 1868, Stanton communicated to the House Johnson's order removing him from the office of Secretary of War; this, with a resolution for the impeachment of the President, was also referred to the Committee on Reconstruction. On the 22d the committee reported a resolution recommending impeachment, which was agreed to on the 24th by a vote of 128 to 47. Committees were appointed to prepare the articles of impeachment and to notify the Senate. The action of the House was communicated to the Senate on the 25th. Nine articles of impeachment were agreed to by the House March 2, two additional articles being approved the following day. On the 4th the articles were read to the Senate, and on the 6th an order was entered directing the issuance of a summons to the President to file an answer to the charges, the order being made returnable March 13. A request for more time in which to prepare an answer secured an extension to the 23d. On that date the answer of the President was read. A request for thirty days in which to complete preparations for the trial was denied, the vote being 12 to 41. The trial began March 30, Chief Justice Chase presiding, and continued until May 12. May 16 a vote was taken on Article XI of the charges. The vote was 35 "guilty," 19 "not guilty." Votes on Articles II and III, May 26, showed the same result, whereupon the court, by a vote of 34 to 16, adjourned *sine die*. Judgment of acquittal was entered on the three articles on which a vote was taken.

For convenience, the votes on the adoption of the several articles are given in brackets after each article in the text following.

REFERENCES. — *Text* in *House Journal*, 40th Cong., 2d Sess., 440–465. For the proceedings prior to the trial see the *House and Senate Journals* and the *Cong. Globe;* for the trial see the *Senate Journal*, Appendix, and the *Cong. Globe*, Supplement. The report of November 25, 1867, is *House Report* 7, 40th Cong., 1st Sess. On the Stanton-Grant episode see *House Exec. Docs.* 57, 149,

168 and *183*, 40th Cong., 2d Sess. Extracts from Johnson's interviews and speeches are given in McPherson, *Reconstruction*, 44–63, 127–143. The early impeachment testimony is in *House Report 7*, 40th Cong., 1st Sess.; for the articles and fuller testimony see *House Misc. Doc. 91*, 40th Cong., 2d Sess. On the conduct of the impeachment see *House Reports 74* and *75*, *Senate Report 59*, and *Senate Misc. Doc. 43*, 40th Cong., 2d Sess. Important general references are De Witt, *Impeachment and Trial of Andrew Johnson;* Foster, *Commentaries on the Constitution*, I, 546–564; Dunning, *Essays*, 253–303; Storey, *Sumner*, chap. 19; McCall, *Thaddeus Stevens*, chaps. 15 and 18; Sherman, *Recollections*, I, chap. 19; Cox, *Three Decades*, chap. 32; Blaine, *Twenty Years of Congress*, II, chap. 14.

Article I. That said Andrew Johnson, President of the United States, on the twenty-first day of February, in the year of our Lord one thousand eight hundred and sixty-eight, at Washington, in the District of Columbia, unmindful of the high duties of his office, of his oath of office, and of the requirement of the Constitution that he should take care that the laws be faithfully executed, did unlawfully, and in violation of the Constitution and laws of the United States, issue an order in writing for the removal of Edwin M. Stanton from the office of Secretary for the Department of War, said Edwin M. Stanton having been theretofore duly appointed and commissioned, by and with the advice and consent of the Senate of the United States, as such Secretary, and said Andrew Johnson, President of the United States, on the twelfth day of August, in the year of our Lord one thousand eight hundred and sixty-seven, and during the recess of said Senate, having suspended by his order Edwin M. Stanton from said office, and within twenty days after the first day of the next meeting of said Senate, that is to say, on the twelfth day of December in the year last aforesaid, having reported to said Senate such suspension with the evidence and reasons for his action in the case and the name of the person designated to perform the duties of such office temporarily until the next meeting of the Senate, and said Senate thereafterwards on the thirteenth day of January, in the year of our Lord one thousand eight hundred and sixty-eight, having duly considered the evidence and reasons reported by said Andrew Johnson for

said suspension, and having refused to concur in said suspension, whereby and by force of the provisions of an act entitled "An act regulating the tenure of certain civil offices," passed March second, eighteen hundred and sixty-seven, said Edwin M. Stanton did forthwith resume the functions of his office, whereof the said Andrew Johnson had then and there due notice, and said Edwin M. Stanton, by reason of the premises, on said twenty-first day of February, being lawfully entitled to hold said office of Secretary for the Department of War, which said order for the removal of said Edwin M. Stanton is in substance as follows, that is to say:

EXECUTIVE MANSION,
Washington, D.C., February 21, 1868.

SIR: By virtue of the power and authority vested in me as President by the Constitution and laws of the United States, you are hereby removed from office as Secretary for the Department of War, and your functions as such will terminate upon receipt of this communication.

You will transfer to Brevet Major General Lorenzo Thomas, Adjutant General of the army, who has this day been authorized and empowered to act as Secretary of War *ad interim*, all records, books, papers, and other public property now in your custody and charge.

Respectfully, yours, ANDREW JOHNSON.

To the Hon. EDWIN M. STANTON, *Washington, D.C.*

Which order was unlawfully issued with intent then and there to violate the act entitled "An act regulating the tenure of certain civil offices," passed March second, eighteen hundred and sixty-seven, and with the further intent, contrary to the provisions of said act, in violation thereof, and contrary to the provisions of the Constitution of the United States, and without the advice and consent of the Senate of the United States, the said Senate then and there being in session, to remove said Edwin M. Stanton from the office of Secretary for the Department of War, the said Edwin M. Stanton being then and there Secretary for the Department of War, and being then and there in the due and lawful execution and discharge of the duties of said office, whereby said Andrew Johnson, President of the

United States, did then and there commit and was guilty of a high misdemeanor in office.

[Agreed to, 127 to 42, 20 not voting.]

ARTICLE II. That on said twenty-first day of February . . . [1868] . . ., at Washington, in the District of Columbia, said Andrew Johnson . . ., unmindful of the high duties of his office, of his oath of office, and in violation of the Constitution of the United States, and contrary to the provisions of . . . [the Tenure of Office Act] . . ., without the advice and consent of the Senate of the United States, said Senate then and there being in session, and without authority of law, did, with intent to violate the Constitution of the United States, and the act aforesaid, issue and deliver to one Lorenzo Thomas a letter of authority in substance as follows, that is to say:

EXECUTIVE MANSION,
Washington, D.C., February 21, 1868.

SIR: The Hon. Edwin M. Stanton having been this day removed from office as Secretary for the Department of War, you are hereby authorized and empowered to act as Secretary of War *ad interim*, and will immediately enter upon the discharge of the duties pertaining to that office.

Mr. Stanton has been instructed to transfer to you all the records, books, papers, and other public property now in his custody and charge.

Respectfully, yours, ANDREW JOHNSON.

To Brevet Major General LORENZO THOMAS,
Adjutant General U.S. Army, Washington, D.C.

Then and there being no vacancy in said office of Secretary for the Department of War, whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

[Agreed to, 124 to 41, 24 not voting.]

ARTICLE III. That said Andrew Johnson, . . . [on February 21, 1868] . . ., at Washington, in the District of Columbia, did commit and was guilty of a high misdemeanor in office in this, that, without authority of law, while the Senate of the United States was then and there in session, he did appoint one Lorenzo

Thomas to be Secretary for the Department of War *ad interim*, without the advice and consent of the Senate, and with intent to violate the Constitution of the United States, no vacancy having happened in said office of Secretary for the Department of War during the recess of the Senate, and no vacancy existing in said office at the time. . . .

[Agreed to, 124 to 40, 25 not voting.]

ARTICLE IV. That said Andrew Johnson, . . . [on February 21, 1868] . . ., at Washington, in the District of Columbia, did unlawfully conspire with one Lorenzo Thomas, and with other persons to the House of Representatives unknown, with intent, by intimidation and threats, unlawfully to hinder and prevent Edwin M. Stanton, then and there the Secretary for the Department of War, duly appointed under the laws of the United States, from holding said office of Secretary for the Department of War, contrary to and in violation of the Constitution of the United States, and of the provisions of an act entitled "An act to define and punish certain conspiracies," approved July thirty-first, eighteen hundred and sixty-one, whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high crime in office.

[Agreed to, 127 to 42, 20 not voting.]

ARTICLE V. That said Andrew Johnson, . . . [on February 21, 1868] . . ., and on divers other days and times in said year . . . [before March 2, 1868] . . ., at Washington, in the District of Columbia, did unlawfully conspire with one Lorenzo Thomas, and with other persons to the House of Representatives unknown, to prevent and hinder the execution of . . . [the Tenure of Office Act] . . ., and in pursuance of said conspiracy did unlawfully attempt to prevent Edwin M. Stanton, then and there being Secretary for the Department of War, duly appointed and commissioned under the laws of the United States, from holding said office, whereby the said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

[Agreed to, 127 to 42, 20 not voting.]

Article VI. That said Andrew Johnson, . . . [on February 21, 1868] . . ., at Washington, in the District of Columbia, did unlawfully conspire with one Lorenzo Thomas, by force to seize, take, and possess the property of the United States in the Department of War, and then and there in the custody and charge of Edwin M. Stanton, Secretary for said department, contrary to the provisions of . . . [the act of July 31, 1861] . . ., and with intent to violate and disregard . . . [the Tenure of Office Act] . . ., whereby said Andrew Johnson, President of the United States, did then and there commit a high crime in office.

[Agreed to, 127 to 42, 20 not voting.]

Article VII. That said Andrew Johnson, . . . [on February 21, 1868] . . ., at Washington, in the District of Columbia, did unlawfully conspire with one Lorenzo Thomas with intent unlawfully to seize, take, and possess the property of the United States in the Department of War, in the custody and charge of Edwin M. Stanton, Secretary for said department, with intent to violate and disregard . . . [the Tenure of Office Act] . . ., whereby said Andrew Johnson, President of the United States, did then and there commit a high misdemeanor in office.

[Agreed to, 127 to 42, 20 not voting.]

Article VIII. That said Andrew Johnson, . . . with intent unlawfully to control the disbursements of the moneys appropriated for the military service and for the Department of War, . . . [on February 21, 1868] . . ., at Washington, in the District of Columbia, did unlawfully and contrary to the provisions of . . . [the Tenure of Office Act] . . ., and in violation of the Constitution of the United States, and without the advice and consent of the Senate of the United States, and while the Senate was then and there in session, there being no vacancy in the office of Secretary for the Department of War, and with intent to violate and disregard the act aforesaid, then and there issue and deliver to one Lorenzo Thomas a letter of authority in writing, in substance as follows, that is to say:

[Here follows the letter of appointment as in Article II.]

Whereby said Andrew Johnson, President of the United

States, did then and there commit and was guilty of a high misdemeanor in office.

[Agreed to, 127 to 42, 20 not voting.]

Article IX. That said Andrew Johnson, . . . [on February 22, 1868] . . ., at Washington, in the District of Columbia, in disregard of the Constitution and the laws of the United States duly enacted, as commander-in-chief of the army of the United States, did bring before himself then and there William H. Emory, a major general by brevet in the army of the United States, actually in command of the department of Washington and the military forces thereof, and did then and there, as such commander-in-chief, declare to and instruct said Emory that part of a law of the United States, passed March second, eighteen hundred and sixty-seven, entitled "An act making appropriations for the support of the army for the year ending June thirtieth, eighteen hundred and sixty-eight, and for other purposes," especially the second section thereof, which provides, among other things, that "all orders and instructions relating to military operations issued by the President or Secretary of War shall be issued through the General of the army, and in case of his inability through the next in rank," was unconstitutional, and in contravention of the commission of said Emory, and which said provision of law had been theretofore duly and legally promulgated by General Order for the government and direction of the army of the United States, as the said Andrew Johnson then and there well knew, with intent thereby to induce said Emory in his official capacity as commander of the department of Washington to violate the provisions of said act, and to take and receive, act upon, and obey such orders as he, the said Andrew Johnson, might make and give, and which should not be issued through the General of the army of the United States, according to the provisions of said act, and with the further intent thereby to enable him, the said Andrew Johnson, to prevent the execution of . . . [the Tenure of Office Act] . . ., and to unlawfully prevent Edwin M. Stanton, then being Secretary for the Department of War, from holding said office and discharg-

ing the duties thereof, whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

[Agreed to, 108 to 41, 40 not voting.]

Article X. That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and the dignity and proprieties thereof, and of the harmony and courtesies which ought to exist and be maintained between the executive and legislative branches of the government of the United States, designing and intending to set aside the rightful authority and powers of Congress, did attempt to bring into disgrace, ridicule, hatred, contempt, and reproach the Congress of the United States, and the several branches thereof, to impair and destroy the regard and respect of all the good people of the United States for the Congress and legislative power thereof, (which all officers of the government ought inviolably to preserve and maintain,) and to excite the odium and resentment of all the good people of the United States against Congress and the laws by it duly and constitutionally enacted; and in pursuance of his said design and intent openly and publicly, and before divers assemblages of the citizens of the United States convened in divers parts thereof to meet and receive said Andrew Johnson as the Chief Magistrate of the United States, did, . . . [on August 18, 1866] . . ., and on divers other days and times, as well before as afterward, make and deliver with a loud voice certain intemperate, inflammatory and scandalous harangues, and did therein utter loud threats and bitter menaces as well against Congress as the laws of the United States duly enacted thereby, amid the cries, jeers, and laughter of the multitudes then assembled and in hearing, which are set forth in the several specifications hereinafter written, in substance and effect, that is to say:

Specification First. In this, that at Washington, in the District of Columbia, in the Executive Mansion, to a committee of citizens who called upon the President of the United States, speaking of and concerning the Congress of the United States,

said Andrew Johnson, President of the United States, heretofore, to wit, . . . [on August 18, 1866] . . ., did, in a loud voice, declare in substance and effect, among other things, that is to say:

"So far as the executive department of the government is concerned, the effort has been made to restore the Union, to heal the breach, to pour oil into the wounds which were consequent upon the struggle, and (to speak in common phrase) to prepare, as the learned and wise physician would, a plaster healing in character and coextensive with the wound. We thought, and we think, that we had partially succeeded; but as the work progresses, as reconstruction seemed to be taking place, and the country was becoming reunited, we found a disturbing and marring element opposing us. In alluding to that element, I shall go no further than your convention and the distinguished gentleman who has delivered to me the report of its proceedings. I shall make no reference to it that I do not believe the time and occasion justify.

"We have witnessed in one department of the government every endeavor to prevent the restoration of peace, harmony, and union. We have seen hanging upon the verge of the government, as it were, a body called, or which assumes to be, the Congress of the United States, while in fact it is a Congress of only a part of the States. We have seen this Congress pretend to be for the Union, when its every step and act tended to perpetuate disunion and make a disruption of the States inevitable. * * * We have seen Congress gradually encroach, step by step, upon constitutional rights, and violate, day after day and month after month, fundamental principles of the government. We have seen a Congress that seemed to forget that there was a limit to the sphere and scope of legislation. We have seen a Congress in a minority assume to exercise power which, allowed to be consummated, would result in despotism or monarchy itself."

Specification Second. In this, that at Cleveland, in the State of Ohio, heretofore, to wit, . . . [on September 3, 1866]

. . ., before a public assemblage of citizens and others, said Andrew Johnson, . . . speaking of and concerning the Congress of the United States, did, in a loud voice, declare in substance and effect, among other things, that is to say:

"I will tell you what I did do. I called upon your Congress that is trying to break up the government."

* * * * * * *

"In conclusion, beside that, Congress had taken much pains to poison their constituents against him. But what had Congress done? Have they done anything to restore the union of these States? No; on the contrary, they had done everything to prevent it; and because he stood now where he did when the rebellion commenced, he had been denounced as a traitor. Who had run greater risks or made greater sacrifices than himself? But Congress, factious and domineering, had undertaken to poison the minds of the American people."

Specification Third. In this, that at St. Louis, in the State of Missouri, heretofore, to wit, . . . [on September 8, 1866] . . ., before a public assemblage of citizens and others, said Andrew Johnson, . . . speaking of and concerning the Congress of the United States, did, in a loud voice, declare, in substance and effect, among other things, that is to say:

"Go on. Perhaps if you had a word or two on the subject of New Orleans you might understand more about it than you do. And if you will go back — if you will go back and ascertain the cause of the riot at New Orleans perhaps you will not be so prompt in calling out 'New Orleans.' If you will take up the riot at New Orleans and trace it back to its source or its immediate cause, you will find out who was responsible for the blood that was shed there. If you will take up the riot at New Orleans and trace it back to the radical Congress, you will find that the riot at New Orleans was substantially planned. If you will take up the proceedings in their caucuses you will understand that they there knew that a convention was to be called which was extinct by its power having expired; that it was said that the intention was that a new government was to be organ-

ized, and on the organization of that government the intention was to enfranchise one portion of the population, called the colored population, who had just been emancipated, and at the same time disfranchise white men. When you design to talk about New Orleans you ought to understand what you are talking about. When you read the speeches that were made, and take up the facts on the Friday and Saturday before that convention sat, you will there find that speeches were made incendiary in their character, exciting that portion of the population, the black population, to arm themselves and prepare for the shedding of blood. You will also find that that convention did assemble in violation of law, and the intention of that convention was to supersede the reorganized authorities in the State government of Louisiana, which had been recognized by the government of the United States; and every man engaged in that rebellion in that convention, with the intention of superseding and upturning the civil government which had been recognized by the government of the United States, I say that he was a traitor to the Constitution of the United States, and hence you find that another rebellion was commenced, *having its origin in the radical Congress.*

* * * * * * *

"So much for the New Orleans riot. And there was the cause and the origin of the blood that was shed; and every drop of blood that was shed is upon their skirts and they are responsible for it. I could test this thing a little closer, but will not do it here to-night. But when you talk about the causes and consequences that resulted from proceedings of that kind, perhaps, as I have been introduced here, and you have provoked questions of this kind, though it does not provoke me, I will tell you a few wholesome things that have been done by this radical Congress in connection with New Orleans and the extension of the elective franchise.

"I know that I have been traduced and abused. I know it has come in advance of me here as elsewhere — that I have attempted to exercise an arbitrary power in resisting laws that

were intended to be forced upon the government; that I had exercised that power; that I had abandoned the party that elected me, and that I was a traitor, because I exercised the veto power in attempting and did arrest for a time a bill that was called a 'Freedman's Bureau' bill; yes, that I was a traitor. And I have been traduced, I have been slandered, I have been maligned, I have been called Judas Iscariot, and all that. Now, my countrymen here to-night, it is very easy to indulge in epithets; it is easy to call a man Judas, and cry out traitor; but when he is called upon to give arguments and facts he is very often found wanting. Judas Iscariot — Judas. There was a Judas, and he was one of the twelve apostles. Oh yes, the twelve apostles had a Christ. The twelve apostles had a Christ, and he never could have had a Judas unless he had had twelve apostles. If I have played the Judas, who has been my Christ that I have played the Judas with? Was it Thad. Stevens? Was it Wendell Phillips? Was it Charles Sumner? These are the men that stop and compare themselves with the Saviour; and everybody that differs with them in opinion, and to try to stay and arrest their diabolical and nefarious policy, is to be denounced as a Judas."

* * * * * * *

"Well, let me say to you, if you will stand by me in this action, if you will stand by me in trying to give the people a fair chance — soldiers and citizens — to participate in these offices, God being willing, I will kick them out. I will kick them out just as fast as I can.

"Let me say to you, in concluding, that what I have said I intended to say. I was not provoked into this, and I care not for their menaces, the taunts, and the jeers. I care not for threats. I do not intend to be bullied by my enemies nor overawed by my friends. But God willing, with your help, I will veto their measures whenever any of them come to me."

Which said utterances, declarations, threats, and harangues, highly censurable in any, are peculiarly indecent and unbecoming in the Chief Magistrate of the United States, by means

whereof said Andrew Johnson has brought the high office of the President of the United States into contempt, ridicule, and disgrace, to the great scandal of all good citizens, whereby said Andrew Johnson, President of the United States, did commit and was then and there guilty of a high misdemeanor in office.

[Agreed to, 88 to 44, 57 not voting.]

Article XI. That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, and in disregard of the Constitution and laws of the United States, did heretofore, to wit: on the 18th day of August, 1866, at the city of Washington, and the District of Columbia, by public speech, declare and affirm, in substance, that the thirty-ninth Congress of the United States was not a Congress of the United States authorized by the Constitution to exercise legislative power under the same; but, on the contrary, was a Congress of only part of the States, thereby denying and intending to deny that the legislation of said Congress was valid or obligatory upon him, the said Andrew Johnson, except in so far as he saw fit to approve the same, and also thereby denying and intending to deny the power of the said thirty-ninth Congress to propose amendments to the Constitution of the United States; and in pursuance of said declaration, the said Andrew Johnson, President of the United States, afterward, to wit, on the 21st day of February, 1868, at the city of Washington, in the District of Columbia, did unlawfully and in disregard of the requirements of the Constitution, that he should take care that the laws be faithfully executed, attempt to prevent the execution of . . . [the Tenure of Office Act] . . ., by unlawfully devising and contriving, and attempting to devise and contrive, means by which he should prevent Edwin M. Stanton from forthwith resuming the functions of the office of Secretary for the Department of War, notwithstanding the refusal of the Senate to concur in the suspension theretofore made by said Andrew Johnson of said Edwin M. Stanton from said office of Secretary for the Department of War, and also by further unlawfully devising and contriving and attempting to devise and

contrive means then and there to prevent the execution of an act entitled "An act making appropriations for the support of the army for the fiscal year ending June 30, 1868, and for other purposes," approved March 2, 1867, and also to prevent the execution of an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867; whereby the said Andrew Johnson, President of the United States, did then, to wit, on the 21st day of February, 1868, at the city of Washington, commit and was guilty of a high misdemeanor in office.

[Agreed to, 109 to 32, 48 not voting.]

No. 67. Fourth Reconstruction Act

March 11, 1868

A BILL "to facilitate the restoration of the late rebel States" was introduced in the House, December 5, 1867, by Ashley of Ohio, and referred to the Committee on the Judiciary. On the 18th the bill was withdrawn in favor of a bill of similar purport, substantially identical with the act as passed, brought forward by Thaddeus Stevens. The latter bill passed the House the same day by a vote of 104 to 37, 47 not voting. The bill was not at once considered in the Senate. The rejection, February 4, 1868, of the proposed constitution of Alabama, however, when "the registered voters refrained from voting upon the question of ratification in sufficient numbers to reduce the vote to several thousand less than half the registration," hastened action. A substitute for the House bill was reported February 17, and on the 26th was agreed to, the vote being 28 to 6. The House, by a vote of 96 to 32, 61 not voting, concurred. March 11 the bill became law by the ten days rule.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XV, 41. For the proceedings see the *House and Senate Journals*, 40th Cong., 2d Sess., and the *Cong. Globe*. The text of Ashley's bill is in the *Globe*, December 18, House proceedings. On elections in the Southern States see *House Exec. Doc. 291*, 40th Cong., 1st Sess.; annual report of the Secretary of War, 1868.

An Act to amend the Act passed March twenty-third, eighteen hundred and sixty-seven, entitled "An Act supplementary to 'an act to provide for the more efficient government of the rebel States,' passed March second, eighteen hundred and sixty-seven, and to facilitate their restoration."

Be it enacted . . ., That hereafter any election authorized by the act [of March 23, 1867] . . ., shall be decided by a majority of the votes actually cast; and at the election in which the question of the adoption or rejection of any constitution is submitted, any person duly registered in the State may vote in the election district where he offers to vote when he has resided therein for ten days next preceding such election, upon presentation of his certificate of registration, his affidavit, or other satisfactory evidence, under such regulations as the district commanders may prescribe.

SEC. 2. *And be it further enacted*, That the constitutional convention of any of the States mentioned in the acts to which this is amendatory may provide that at the time of voting upon the ratification of the constitution the registered voters may vote also for members of the House of Representatives of the United States, and for all elective officers provided for by the said constitution; and the same election officers who shall make the return of the votes cast on the ratification or rejection of the constitution, shall enumerate and certify the votes cast for members of Congress.

LEWIS-CLARK NORMAL SCHOOL

No. 68. Act admitting Arkansas to Representation in Congress

June 22, 1868

UNDER Lincoln's proclamation of December 8, 1863 [No. 35], Arkansas formed a State government, but its representatives were refused admittance by Congress, and the joint resolution of February 8, 1865 [No. 43], included the State in the list of those whose electoral votes should not be counted. The

reconstruction government was, however, recognized by President Johnson, and the State was counted in the list of those whose legislatures had ratified the Thirteenth Amendment. The first reconstruction act of March 2, 1867 [No. 56], placed Arkansas in the fourth military division, and the rehabilitation of the State proceeded under the military government. The narrow majority in favor of the ratification of the State constitution, March 13, 1868, led to the introduction of a bill to admit Arkansas to representation in Congress. The bill was reported in the House, May 7, by Thaddeus Stevens, from the Joint Committee on Reconstruction, and passed the next day by a vote of 110 to 32, 48 not voting. In the Senate an amendment prohibiting the abridgment of the elective franchise, etc., on account of race or color was agreed to, June 1, by a vote of 26 to 14, and the bill passed, the final vote being 34 to 8. The House refused to concur, and the bill received its final form from a conference committee. The report of the committee was agreed to by the Senate June 6, and by the House June 8. On the 20th the bill was vetoed by President Johnson, but was passed over the veto, in the House the same day by a vote of 111 to 31, 48 not voting, and in the Senate June 22, by a vote of 30 to 7. Senators from the State qualified June 23, and Representatives June 24.

References. — *Text* in *U.S. Statutes at Large*, XV, 72. For the proceedings see the *House and Senate Journals*, 40th Cong., 2d Sess., and the *Cong. Globe*. On the election in Arkansas see *House Exec. Doc. 278;* on the ratification of the Fourteenth Amendment, *House Misc. Doc. 118, ibid.*

AN ACT to admit the State of Arkansas to representation in Congress.

Whereas the people of Arkansas, in pursuance of the provisions of an act entitled "An act for the more efficient government of the rebel States," passed March second, eighteen hundred and sixty-seven, and the acts supplementary thereto, have framed and adopted a constitution of State government, which is republican, and the legislature of said State has duly ratified the amendment to the Constitution of the United States proposed by the thirty-ninth Congress, and known as article fourteen: Therefore,

Be it enacted . . ., That the State of Arkansas is entitled and admitted to representation in Congress as one of the States of the Union upon the following fundamental condition: That the constitution of Arkansas shall never be so amended or

changed as to deprive any citizen or class of citizens of the United States of the right to vote who are entitled to vote by the constitution herein recognized, except as a punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted, under laws equally applicable to all the inhabitants of said State: *Provided*, That any alteration of said constitution prospective in its effect may be made in regard to the time and place of residence of voters.

No. 69. Act admitting North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida to Representation in Congress

June 25, 1868

As a result of the vote on the ratification of the State constitution of Alabama, a bill to restore Alabama to the Union was introduced in the House, March 10, 1868, by Thaddeus Stevens. A substitute for this bill passed the House, but was indefinitely postponed by the Senate. May 11 a bill to admit North Carolina, South Carolina, Louisiana, Georgia, and Alabama to representation in Congress was reported by Stevens from the Joint Committee on Reconstruction. An amendment striking out Alabama from the list of States was rejected by a vote of 60 to 74, 55 not voting. On the 14th the amended bill passed the House, the vote being 110 to 35, 44 not voting. June 10 the Senate, by a vote of 22 to 21, included Florida, and the bill with further amendments passed, the vote being 31 to 5. The House concurred in the Senate amendments by a vote of 111 to 28, 50 not voting, an amendment striking out Florida being rejected by a vote of 45 to 99, 45 not voting. The bill was vetoed by President Johnson June 25, and passed over the veto the same day, in the House by a vote of 108 to 32, 54 not voting, and in the Senate by a vote of 35 to 8.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XV, 73, 74. For the proceedings see the *House and Senate Journals*, 40th Cong., 2d Sess., and the *Cong. Globe*. On Alabama see *House Exec. Docs. 302 and 303*, and *House Report 21*, 40th Cong., 2d Sess.; on North Carolina, South Carolina, Georgia, and Louisiana, *House Exec. Docs. 281, 300, and 301*, 40th Cong., 2d Sess., and *Senate Exec. Doc. 15*, 40 Cong., 3d Sess.; on Florida, *House Misc. Docs. 109 and 114*, 40th Cong., 2d Sess.

An Act to admit the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida, to Representation in Congress.

WHEREAS the people of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida have, in pursuance of the provisions of an act entitled "An act for the more efficient government of the rebel States," passed March second, eighteen hundred and sixty-seven, and the acts supplementary thereto, framed constitutions of State government which are republican, and have adopted said constitutions by large majorities of the votes cast at the elections held for the ratification or rejection of the same: Therefore,

Be it enacted . . ., That each of the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida, shall be entitled and admitted to representation in Congress as a State of the Union when the legislature of such State shall have duly ratified the amendment to the Constitution of the United States proposed by the Thirty-ninth Congress, and known as article fourteen, upon the following fundamental conditions: That the constitutions of neither of said States shall ever be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote in said State, who are entitled to vote by the constitution thereof herein recognized, except as a punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted under laws equally applicable to all the inhabitants of said State: *Provided*, That any alteration of said constitution may be made with regard to the time and place of residence of voters; and the State of Georgia shall only be entitled and admitted to representation upon this further fundamental condition: that the first and third subdivisions of section seventeen of the fifth article of the constitution of said State, except the proviso to the first subdivision, shall be null and void, and that the general assembly of said State by solemn public act shall declare the assent of the State to the foregoing fundamental condition.

SEC. 2. *And be it further enacted*, That if the day fixed for the first meeting of the legislature of either of said States by the constitution or ordinance thereof shall have passed or have so nearly arrived before the passage of this act that there shall not be time for the legislature to assemble at the period fixed, such legislature shall convene at the end of twenty days from the time this act takes effect, unless the governor elect shall sooner convene the same.

SEC. 3. *And be it further enacted*, That the first section of this act shall take effect as to each State, except Georgia, when such State shall, by its legislature, duly ratify article fourteen of the amendments to the Constitution of the United States, proposed by the Thirty-ninth Congress, and as to the State of Georgia when it shall in addition give the assent of said State to the fundamental condition hereinbefore imposed upon the same; and thereupon the officers of each State duly elected and qualified under the constitution thereof shall be inaugurated without delay; but no person prohibited from holding office under the United States, or under any State, by section three of the proposed amendment to the Constitution of the United States, known as article fourteen, shall be deemed eligible to any office in either of said States, unless relieved from disability as provided in said amendment; and it is hereby made the duty of the President within ten days after receiving official information of the ratification of said amendment by the legislature of either of said States to issue a proclamation announcing that fact.

No. 70. Eight-Hour Law

June 25, 1868

A BILL providing that eight hours should constitute a day's work for laborers, workmen, and mechanics in government employ passed the House March 28, 1867, but was not acted on in the Senate. The same bill was again introduced, January 6, 1868, by Banks of Massachusetts, and passed the same day. In the Senate the bill lay on the table until June 3, when it was taken

up, and on the 24th passed, the vote being 26 to 11, 19 not voting. An act of August 1, 1892, virtually reënacted the act of 1868, with the further provision that the eight hours' work should be embraced in one calendar day, and with penalties for violation of the act.

References. — *Text* in *U.S. Statutes at Large*, XV, 77. For the proceedings see the *House and Senate Journals*, 40th Cong., 2d Sess., and the *Cong. Globe*. On the operation of the law see *Senate Exec. Doc. 72*, 42d Cong., 2d Sess.; *Senate Reports 417 and 418*, 45th Cong., 2d Sess.; *House Report 520*, 46th Cong., 2d Sess. See also *Senate Report 948* and *House Report 1267*, 52d Cong., 1st Sess.; *House Report 957*, 55th Cong., 2d Sess.

An Act constituting eight Hours a Day's Work for all Laborers, Workmen, and Mechanics employed by or on behalf of the Government of the United States.

Be it enacted . . ., That eight hours shall constitute a day's work for all laborers, workmen, and mechanics now employed, or who may be hereafter employed, by or on behalf of the government of the United States; and that all acts and parts of acts inconsistent with this act be, and the same are hereby, repealed.

Approved, June 25, 1868.

No. 71. Oath of Office

July 11, 1868

March 5, 1868, the House having under consideration a resolution for the removal of the political disabilities of R. R. Butler, a representative-elect from Tennessee, the resolution, on motion of Dawes of Massachusetts, was recommitted to the Committee on Elections with instructions to report a general bill for the removal of such disabilities. The bill was reported the same day, and on the 6th passed. Subsequent amendments in the Senate and House were unimportant, and the yeas and nays were not called for. An act of February 15, 1871, allowed those who could not take the oath prescribed by the act of July 2, 1862, and who were not rendered ineligible to office by the Fourteenth Amendment, to take the oath prescribed by this act.

References. — *Text* in *U.S. Statutes at Large*, XV, 85. For the proceedings see the *House and Senate Journals*, 40th Cong., 2d Sess.

An Act prescribing an Oath of Office to be taken by Persons from whom legal Disabilities shall have been removed.

Be it enacted . . ., That whenever any person who has participated in the late rebellion, and from whom all legal disabilities arising therefrom have been removed by act of Congress by a vote of two thirds of each house, has been or shall be elected or appointed to any office or place of trust in or under the government of the United States, he shall, before entering upon the duties thereof, instead of the oath prescribed by the act of July two, eighteen hundred and sixty-two, take and subscribe the following oath or affirmation: I, A. B., do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

Approved, July 11, 1868.

No. 72. Joint Resolution excluding Electoral Votes of the Late Rebellious States

July 20, 1868

A joint resolution "excluding from the electoral college votes of States lately in rebellion which shall not have been reorganized" was introduced in the Senate, June 2, 1868, by George F. Edmunds of Vermont, and referred to the Committee on the Judiciary. The resolution was reported on the 29th with an amendment inserting the clause beginning "nor unless such election of electors." The phraseology of the bill rather than its substance was the chief occasion of debate. The resolution passed the Senate July 10, by a vote of 29 to 5, 23 not voting. The House added the proviso as an amendment, and passed the bill on the 11th by a vote of 112 to 21, 65 not voting. The Senate, by a vote of 19 to 15, concurred. The resolution was vetoed by President Johnson July 20, and passed over the veto the same day, in the House by a vote of 134 to 36, 40 not voting, in the Senate by a vote of 45 to 8.

References. — *Text* in *U.S. Statutes at Large*, XV, 257. For the proceedings see the *House and Senate Journals*, 40th Cong., 2d Sess., and the *Cong. Globe*.

A Resolution excluding from the Electoral College Votes of States lately in Rebellion, which shall not have been reorganized.

Resolved . . ., That none of the States whose inhabitants were lately in rebellion shall be entitled to representation in the electoral college for the choice of President or Vice-President of the United States, nor shall any electoral votes be received or counted from any of such States, unless at the time prescribed by law for the choice of electors the people of such States, pursuant to the acts of Congress in that behalf, shall have, since the fourth day of March, eighteen hundred and sixty-seven, adopted a constitution of State government under which a State government shall have been organized and shall be in operation, nor unless such election of electors shall have been held under the authority of such constitution and government, and such State shall have also become entitled to representation in Congress, pursuant to the acts of Congress in that behalf: *Provided*, That nothing herein contained shall be construed to apply to any State which was represented in Congress on the fourth day of March, eighteen hundred and sixty-seven.

No. 73. Rights of American Citizens in Foreign States

July 27, 1868

In his annual message of December 3, 1867, President Johnson called attention to the conflict between the American theory of the right of expatriation and the British theory of indefeasible citizenship, and the complications arising from the arrest of naturalized citizens of the United States in foreign countries. Papers relating to arrests of American citizens in Great Britain, particularly in connection with the efforts of the British government to suppress the Fenian movement were laid before Congress. In the House the portion of the message referred to, together with numerous resolutions and

petitions from legislatures and other bodies, and several resolutions calling for an inquiry into the rights of American citizens abroad, were referred to the Committee on Foreign Affairs, which submitted a report on the subject January 27, 1868. A bill to define and protect the rights of American citizens in foreign countries was reported from the committee, February 20, by Nathaniel P. Banks of Massachusetts, and recommitted. The bill was again reported March 10, and April 20 passed, the vote being 107 to 4, 78 not voting. The Senate, by a vote of 30 to 7, struck out the clauses empowering the President in certain cases to suspend commercial intercourse with foreign States, and to arrest and detain the citizens of such States found in the United States, the provisions of the last part of section three of the act being inserted in their place. The House concurred in the Senate amendments, and July 27 the act was approved. The Republican and Democratic national platforms had already, in May and July, declared in favor of expatriation and the protection of American subjects abroad.

References. — *Text* in *U.S. Statutes at Large*, XV, 223, 224. For the proceedings see the *House and Senate Journals*, 40th Cong., 2d Sess., and the *Cong. Globe*. The text of the bill reported March 10 is in the *Globe* of that date; Banks's report of January 27 is *House Report 13*. On the general subject see Wharton, *International Law Digest*, II, chap. 7.

An Act concerning the rights of American Citizens in foreign States.

Whereas the right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness; and whereas in the recognition of this principle this government has freely received emigrants from all nations, and invested them with the rights of citizenship; and whereas it is claimed that such American citizens, with their descendents, are subjects of foreign states, owing allegiance to the governments thereof; and whereas it is necessary to the maintenance of public peace that this claim of foreign allegiance should be promptly and finally disavowed: Therefore,

Be it enacted . . ., That any declaration, instruction, opinion, order, or decision of any officers of this government which denies, restricts, impairs, or questions the right of expatriation, is hereby declared inconsistent with the fundamental principles of this government.

SEC. 2. *And be it further enacted*, That all naturalized citizens of the United States, while in foreign states, shall be entitled to, and shall receive from this government, the same protection of persons and property that is accorded to native-born citizens in like situations and circumstances.

SEC. 3. *And be it further enacted*, That whenever it shall be made known to the President that any citizen of the United States has been unjustly deprived of his liberty by or under the authority of any foreign government, it shall be the duty of the President forthwith to demand of that government the reasons for such imprisonment, and if it appears to be wrongful and in violation of the rights of American citizenship, the President shall forthwith demand the release of such citizen, and if the release so demanded is unreasonably delayed or refused, it shall be the duty of the President to use such means, not amounting to acts of war, as he may think necessary and proper to obtain or effectuate such release, and all the facts and proceedings relative thereto shall as soon as practicable be communicated by the President to Congress.

APPROVED, July 27, 1868.

No. 74. Fourteenth Amendment to the Constitution

July 28, 1868

VARIOUS propositions to amend the Constitution were submitted in both House and Senate during the first session of the thirty-ninth Congress. A joint resolution embodying the substance of the provisions of the Fourteenth Amendment was reported in the House, April 30, 1866, by Thaddeus Stevens, from the Committee on Reconstruction, together with a bill for admission to representation of certain States ratifying the same. May 10 the resolution passed the House, the vote being 128 to 37, 18 not voting. The third section of the House resolution provided that until July 4, 1870, all persons who had voluntarily aided the rebellion should be denied the privilege of voting for

Representatives in Congress or presidential electors. The Senate, by a vote of 43 to 0, struck out this section, and recast the amendment in the form in which it was later submitted. The resolution passed the Senate June 8, by a vote of 33 to 11. On the 13th the House, by a vote of 138 to 36, 10 not voting, concurred. The amendment was rejected by Delaware, Maryland, and Kentucky, and was not acted on by California. It was also at first rejected by Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas, with the result that the ratification of the amendment was, by the Reconstruction Act of March 2, 1867, made a condition of the restoration of those States. The ratifications of New Jersey and Ohio were rescinded by the legislatures of those States. July 20, 1868, a proclamation by Seward announced that the amendment had been ratified by the legislatures of twenty-three States, and "by newly constituted and newly established bodies avowing themselves to be and acting as the legislatures of" North Carolina, South Carolina, Florida, Alabama, Louisiana, and Arkansas; and that if the ratifications of New Jersey and Ohio "be deemed as remaining of full force and effect," the amendment was in force. Thereupon Congress, by resolution of July 21, declared the amendment in force and directed its promulgation as such. The final proclamation was issued July 28.

REFERENCES. — *Text* in *Revised Statutes* (ed. 1878), 31. For the proceedings of Congress see the *House and Senate Journals*, 39th Cong., and 40th Cong., 1st and 2d Sess., and the *Cong. Globe*. The various proclamations are in *U.S. Statutes at Large*, XV. For some early proposals see McPherson, *Reconstruction*, 103. See also Guthrie, *Fourteenth Amendment; Slaughter House Cases*, 16 *Wallace*, 36; Johnson's message of June 22, 1866. Many disabilities under the amendment were removed by special acts; for the general act of May 22, 1872, see No. 94, *post*.

ARTICLE XIV.

SEC. 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the

whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SEC. 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

SEC. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

SEC. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

No. 75. Proclamation granting Full Amnesty

December 25, 1868

THE act of January 21, 1867, repealing the amnesty provisions of the act of July 17, 1862, was regarded by President Johnson as an infringement upon the constitutional powers of the executive, and as such was ignored. A proclamation of September 7, 1867, granted full pardon and amnesty to all persons who had participated in the late rebellion, with the restoration of property and privileges, except as to property in slaves and in cases of legal proceedings under the laws of the United States, on condition of taking an oath to support the Constitution and the Union, and to "abide by and faithfully support all laws and proclamations which have been made during the late rebellion with reference to the emancipation of slaves." The following were excluded from the benefits of the proclamation : —

"*First.* The chief or pretended chief executive officers, including the President, the Vice-President, and all Heads of Departments of the pretended Confederate or Rebel Government, and all who were agents thereof in foreign States and countries, and all who held, or pretended to hold, in the service of the said pretended Confederate Government, a military rank or title above the grade of brigadier-general, or naval rank or title above that of captain, and all who were or pretended to be Governors of States, while maintaining, aiding, abetting, or submitting to and acquiescing in the rebellion.

"*Second.* All persons who in any way treated otherwise than as lawful prisoners of war persons who in any capacity were employed or engaged in the military or naval service of the United States.

"*Third.* All persons who, at the time they may seek to obtain the benefits of this proclamation, are actually in civil, military, or naval confinement or custody, or legally held to bail, either before or after conviction, and all persons who were engaged directly or indirectly in the assassination of the late President of the United States, or in any plot or conspiracy in any manner therewith connected."

A proclamation of July 4, 1868, granted amnesty to all save "such person or persons as may be under presentment or indictment, in any court of the United States having competent jurisdiction, upon a charge of treason or other felony," together with "restoration of all rights of property, except as to slaves, and except also as to any property of which any person may have been legally divested under the laws of the United States." The proclamation of December 25 declared amnesty without conditions. A Senate resolution of January 5, 1869, requested the President "to transmit to the Senate a copy of any proclamation of amnesty made by him since the last adjournment of Congress, and also to communicate to the Senate by what authority of law the same was made." In a message of January 18 Johnson transmitted a copy of the proc-

lamation of December 25, and justified his course in issuing it as warranted by the Constitution and in harmony with the action of certain of his predecessors. The proclamation did not affect the suffrage qualifications in the reconstructed States.

References. — *Text* in *U.S. Statutes at Large*, XV, 711, 712. See *Senate Report 239*, 40th Cong., 3d Sess.

By the President of the United States of America.

A PROCLAMATION.

Whereas the President of the United States has heretofore set forth several proclamations, offering amnesty and pardon to persons who had been or were concerned in the late rebellion against the lawful authority of the government of the United States . . .;

And whereas, the authority of the Federal Government having been reëstablished in all the States and Territories within the jurisdiction of the United States, it is believed that such prudential reservations and exceptions as at the dates of said several proclamations were deemed necessary and proper may now be wisely and justly relinquished, and that a universal amnesty and pardon for participation in said rebellion extended to all who have borne any part therein will tend to secure permanent peace, order, and prosperity throughout the land, and to renew and fully restore confidence and fraternal feeling among the whole people, and their respect for and attachment to the National Government, designed by its patriotic founders for the general good:

Now, therefore, be it known that I, ANDREW JOHNSON, President of the United States, by virtue of the power and authority in me vested by the Constitution, and in the name of the sovereign people of the United States, do hereby proclaim and declare unconditionally, and without reservation, to all and to every person who directly or indirectly participated in the late insurrection or rebellion, a full pardon and amnesty for the offence of treason against the United States, or of adhering to their enemies during the late civil war, with restoration of all

rights, privileges, and immunities under the Constitution and the laws which have been made in pursuance thereof.

* * * * * * *

No. 76. Provisional Governments of Virginia, Texas, and Mississippi

February 18, 1869

A JOINT resolution for the removal of certain civil officers in Virginia and Texas was introduced in the Senate July 24, 1868, and passed the same day. The bill was not taken up in the House until December 10; it was then referred to the Committee on Reconstruction, which reported it, January 18, 1869, with an amendment, the amendment being the first two provisos of the act. The same day the bill passed the House. The Senate added the proviso including Mississippi, in which the House concurred. The resolution became law under the ten days rule.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XV, 344. For the proceedings see the *House and Senate Journals*, 40th Cong., 2d and 3d Sess., and the *Cong. Globe*. The debate was unimportant.

A Resolution respecting the provisional Governments of Virginia and Texas.

Resolved . . ., That the persons now holding civil offices in the provisional governments of Virginia and Texas, who cannot take and subscribe the oath prescribed by the act . . . [of July 2, 1862] . . ., shall, on the passage of this resolution, be removed therefrom; and it shall be the duty of the district commanders to fill the vacancies so created by the appointment of persons who can take said oath: *Provided*, That the provisions of this resolution shall not apply to persons who by reason of the removal of their disabilities as provided in the fourteenth amendment to the Constitution shall have qualified for any office in pursuance of the act . . . [of July 11, 1868] . . .: *And provided further*, That this resolution shall not take effect until thirty days from and after its passage: *And it is further provided*, That this resolution shall be, and is hereby extended to, and made applicable to the State of Mississippi.

No. 77. Extradition Act

March 3, 1869

A BILL "to provide for giving effect to treaty stipulations between this and foreign governments for the extradition of criminals" was introduced in the Senate, December 17, 1868, by Trumbull of Illinois. The bill was called up January 11, 1869, but went over until February 5, when it was read and passed. The bill passed the House March 2. There was no debate in either house.

REFERENCES.— *Text* in *U.S. Statutes at Large*, XV, 337, 338. The proceedings are unimportant. On the general subject see Wharton, *International Law Digest*, II, chap. 7.

An Act further to provide for giving Effect to Treaty Stipulations between this and foreign Governments for the Extradition of Criminals.

Be it enacted . . ., That whenever any person shall have been delivered by any foreign government to an agent or agents of the United States for the purpose of being brought within the United States and tried for any crime of which he is duly accused, the President shall have power to take all necessary measures for the transportation and safe-keeping of such accused person, and for his security against lawless violence, until the final conclusion of his trial for the crime[*s*] or offences specified in the warrant of extradition, and until his final discharge from custody or imprisonment for or on account of such crimes or offences, and for a reasonable time thereafter. And it shall be lawful for the President, or such person as he may empower for that purpose, to employ such portion of the land or naval forces of the United States, or of the militia thereof, as may be necessary for the safe-keeping and protection of the accused as aforesaid.

SEC. 2. *And be it further enacted*, That any person duly appointed as agent to receive in behalf of the United States the delivery by a foreign government of any person accused of crime committed within the jurisdiction of the United States and to convey him to the place of his trial, shall be, and hereby is, vested with all the powers of a marshal of the United

States in the several districts through which it may be necessary for him to pass with such prisoner, so far as such power is requisite for his safe-keeping.

SEC. 3. *And be it further enacted*, That if any person or persons shall knowingly and wilfully obstruct, resist, or oppose such agent in the execution of his duties, or shall rescue, or attempt to rescue, such prisoner, whether in the custody of the agent aforesaid, or of any marshal, sheriff, jailer, or other officer or person to whom his custody may have lawfully been committed, every person so knowingly and wilfully offending in the premises shall, on conviction thereof before the district or circuit court of the United States for the district in which the offence was committed, be fined not exceeding one thousand dollars, and imprisoned not exceeding one year.

APPROVED, March 3, 1869.

No. 78. Act to strengthen the Public Credit

March 18, 1869

A BILL "to strengthen the public credit, and relating to contracts for the payment of coin," was introduced in the House, January 20, 1869, by Schenck of Ohio, and referred to the Committee of Ways and Means. The bill was taken up February 24, and passed the same day by a vote of 121 to 60, 41 not voting. On the 27th the bill passed the Senate, but was disposed of by a "pocket" veto. The second section of the bill legalized contracts for payments in coin. The same bill was again introduced by Schenck March 12, and passed the House the same day by a vote of 93 to 48, 52 not voting. A bill of somewhat different character had been introduced in the Senate March 9. On the 15th the Senate bill was laid aside, and the House bill, without the second section, passed, the final vote being 42 to 13.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XVI, 1. For the proceedings see the *House and Senate Journals*, 40th Cong., 3d Sess., and 41st Cong., 1st Sess., and the *Cong. Globe.*

An Act to strengthen the public Credit.

Be it enacted . . ., That in order to remove any doubt as to the purpose of the government to discharge all just obligations

to the public creditors, and to settle conflicting questions and interpretations of the laws by virtue of which such obligations have been contracted, it is hereby provided and declared that the faith of the United States is solemnly pledged to the payment in coin or its equivalent of all the obligations of the United States not bearing interest, known as United States notes, and of all the interest-bearing obligations of the United States, except in cases where the law authorizing the issue of any such obligation has expressly provided that the same may be paid in lawful money or other currency than gold and silver. But none of said interest-bearing obligations not already due shall be redeemed or paid before maturity unless at such time United States notes shall be convertible into coin at the option of the holder, or unless at such time bonds of the United States bearing a lower rate of interest than the bonds to be redeemed can be sold at par in coin. And the United States also solemnly pledges its faith to make provision at the earliest practicable period for the redemption of the United States notes in coin.

Approved, March 18, 1869.

No. 79. Equal Rights in the District of Columbia

March 18, 1869

A bill to give equal political rights, regardless of color, to persons in the District of Columbia, passed the Senate July 17, 1867, and the House July 18, but was not acted on by the President. The same bill again passed the Senate December 5, and the House December 9, and was again left without action. A third bill, in the words of the act following, passed the Senate February 11, 1869, and the House March 2, but failed under a "pocket" veto. The same bill was again introduced in the Senate, March 6, by Sumner, and on the 8th passed by a vote of 31 to 27. The House passed the bill without amendment on the 15th, the vote being 111 to 46, 39 not voting, and on the 18th the act was approved.

References. — *Text* in *U.S. Statutes at Large*, XVI, 3. For the proceedings see the *House and Senate Journals*, 41st Cong., 1st Sess., and the *Cong. Globe*. The important debates took place on the earlier bills.

An Act for the further Security of equal Rights in the District of Columbia.

Be it enacted . . ., That the word "white," wherever it occurs in the laws relating to the District of Columbia, or in the charter or ordinances of the cities of Washington or Georgetown, and operates as a limitation on the right of any elector of such District, or of either of the cities, to hold any office, or to be selected and to serve as a juror, be, and the same is hereby, repealed, and it shall be unlawful for any person or officer to enforce or attempt to enforce such limitation after the passage of this act.

APPROVED, March 18, 1869.

No. 80. Amended Tenure of Office Act

April 5, 1869

VARIOUS bills to amend or repeal the Tenure of Office Act [No. 57] were introduced in Congress prior to the act of April 5, but none of them received favorable consideration. March 9, 1869, a bill to repeal the act was introduced in the House by Benjamin F. Butler of Massachusetts, and passed the same day, the vote being 138 to 16, 39 not voting. In the Senate, by a vote of 34 to 25, the bill was referred to the Committee on the Judiciary, who reported on the 24th a new bill, which was agreed to by a vote of 37 to 15. On the 26th, by a vote of 70 to 99, 27 not voting, the House disagreed to the Senate amendments, and the bill received its final form from a conference committee. The report of the committee was agreed to March 31, in the House by a vote of 108 to 67, 21 not voting, in the Senate by a vote of 42 to 8. The act was repealed by an act of March 3, 1887.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XVI, 6, 7. For the proceedings see the *House and Senate Journals*, 41st Cong., 1st Sess., and the *Cong. Globe*.

An Act to amend "An Act regulating the Tenure of certain civil Offices."

Be it enacted . . ., That the first and second sections of an act entitled "An act regulating the tenure of certain civil offices," passed March two, eighteen hundred and sixty-seven, be, and the same are hereby, repealed; and in lieu of said repealed sections the following are hereby enacted:

That every person holding any civil office to which he has been or hereafter may be appointed by and with the advice and consent of the Senate, and who shall have become duly qualified to act therein, shall be entitled to hold such office during the term for which he shall have been appointed, unless sooner removed by and with the advice and consent of the Senate, or by the appointment, with the like advice and consent, of a successor in his place, except as herein otherwise provided.

SEC. 2. *And be it further enacted,* That during any recess of the Senate the President is hereby empowered, in his discretion, to suspend any civil officer appointed by and with the advice and consent of the Senate, except judges of the United States courts, until the end of the next session of the Senate, and to designate some suitable person, subject to be removed in his discretion by the designation of another, to perform the duties of such suspended officer in the mean time; and such person so designated shall take the oaths and give the bonds required by law to be taken and given by the suspended officer, and shall, during the time he performs his duties, be entitled to the salary and emoluments of such office, no part of which shall belong to the officer suspended; and it shall be the duty of the President within thirty days after the commencement of each session of the Senate, except for any office which in his opinion ought not to be filled, to nominate persons to fill all vacancies in office which existed at the meeting of the Senate, whether temporarily filled or not, and also in the place of all officers suspended; and if the Senate during such session shall refuse to advise and consent to an appointment in the place of any suspended officer, then, and not otherwise, the President shall nominate another person as soon as practicable to said session of the Senate for said office.

SEC. 3. *And be it further enacted,* That section three of the act to which this is an amendment be amended by inserting after the word "resignation," in line three of said section, the following: "or expiration of term of office."

APPROVED, April 5, 1869.

No. 81. Submission of the Constitutions of Virginia, Mississippi, and Texas

April 10, 1869

In a message of April 7, 1869, President Grant recommended that provision be made for a vote in Virginia on the State constitution agreed upon by a convention April 17, 1868, and for the election of State officers, the State to be restored on the approval of the constitution by Congress. He further raised the question whether the rejected constitution of Mississippi should not be resubmitted. A bill to give effect to this recommendation, and including Texas, was reported in the House the next day from the Committee on Reconstruction, and passed with amendments by a vote of 125 to 25, 47 not voting. The Senate, by a vote of 30 to 20, added the provision of section 6 of the act, together with other amendments. The final vote in the Senate was 44 to 9. The House, under suspension of the rules, concurred in the Senate amendments, the vote being 108 to 39, 54 not voting. Proclamations submitting the constitutions of the States to the voters were issued, for Virginia, May 14, for Mississippi, July 13, and for Texas, July 15.

References. — *Text* in *U.S. Statutes at Large*, XVI, 40, 41. For the proceedings see the *House and Senate Journals*, 41st Cong., 1st Sess., and the *Cong. Globe*. The bill reported April 8 is in the *Globe*. On Canby's course in Virginia see *Senate Exec. Doc. 13*, 41st Cong., 2d Sess. On the result of the elections see Dunning, *Essays*, 232–234. On conditions in Virginia see *Senate Exec. Doc. 13*, 41st Cong., 2d Sess.; in Texas, *House Misc. Docs. 57 and 127*, and *Senate Misc. Doc. 109*, 40th Cong., 2d Sess.

An Act authorizing the Submission of the Constitutions of Virginia, Mississippi, and Texas, to a Vote of the People, and authorizing the Election of State Officers, provided by the said Constitutions, and Members of Congress.

Be it enacted . . ., That the President of the United States, at such time as he may deem best for the public interest, may submit the constitution which was framed by the convention which met in Richmond, Virginia, on Tuesday, the third day of December, one thousand eight hundred and sixty-seven, to the voters of said State, registered at the date of said submission, for ratification or rejection; and may also submit to a separate vote

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such provisions of said constitution as he may deem best, such vote to be taken either upon each of the said provisions alone, or in connection with the other portions of said constitution, as the President may direct.

SEC. 2. *And be it further enacted*, That at the same election the voters of said State may vote for and elect members of the general assembly of said State, and all the officers of said State provided for by the said constitution, and members of Congress; and the officer commanding the district of Virginia shall cause the lists of registered voters of said State to be revised, enlarged, and corrected prior to such election, according to law, and for that purpose may appoint such registrars as he may deem necessary. And said elections shall be held and returns thereof made in the manner provided by the acts of Congress commonly called the reconstruction acts.

SEC. 3. [Similar provisions for Texas]; *Provided, also*, That no election shall be held in said State of Texas for any purpose until the President so directs.

SEC. 4. [Similar provisions for Mississippi.]

SEC. 5. *And be it further enacted*, That if either of said constitutions shall be ratified at such election, the legislature of the State so ratifying, elected as provided for in this act, shall assemble at the capital of said State on the fourth Tuesday after the official promulgation of such ratification by the military officer commanding in said State.

SEC. 6. *And be it further enacted*, That before the States of Virginia, Mississippi, and Texas shall be admitted to representation in Congress, their several legislatures, which may be hereafter lawfully organized, shall ratify the fifteenth article, which has been proposed by Congress to the several States as an amendment to the Constitution of the United States.

SEC. 7. *And be it further enacted*, That the proceedings in any of said States shall not be deemed final or operate as a complete restoration thereof until their action, respectively, shall be approved by Congress.

APPROVED, April 10, 1869.

No. 82. Reconstruction of Georgia

December 22, 1869

A BILL "to enforce the fourteenth amendment to the Constitution and the laws of the United States in the State of Georgia, and to restore to that State the republican form of government elected under its new constitution," was introduced in the Senate, March 5, 1869, by Edmunds of Vermont, and referred to the Committee on the Judiciary. The bill was reported with an amendment on the 17th, but without recommendation as to its passage, the committee being equally divided on that point. A bill with the same title was reported in the House, April 7, from the Committee on Reconstruction. There was no further action on either bill during the session. A concurrent resolution of February 9 had provided, in the meantime, for the recognition of the electoral vote of Georgia. In his annual message of December 6, President Grant called attention to the unseating of colored members of the legislature of Georgia and the seating of persons disqualified by the fourteenth amendment, and submitted "whether it would not be wise, without delay, to enact a law authorizing the governor of Georgia to convene the members originally elected to the legislature, requiring each member to take the oath prescribed by the reconstruction acts, and none to be admitted who are ineligible under the third clause of the fourteenth amendment." The Edmunds bill was thereupon called up, and, together with a bill on the same subject introduced by Oliver P. Morton of Indiana, referred to the Committee on the Judiciary. December 13 the committee reported the Morton bill. On the 17th, by a vote of 38 to 15, section 8, "that the legislature of Georgia shall be regarded as provisional only, until the further action of Congress," was stricken out, and section 8 of the act inserted. The bill then passed, the vote being 45 to 9. The House passed the bill on the 21st by a vote of 121 to 51, 39 not voting.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XVI, 59, 60. For the proceedings see the *House and Senate Journals*, 41st Cong., 1st and 2d Sess., and the *Cong. Globe*. On political conditions in Georgia see *House Misc. Doc. 52*, 40th Cong., 3d Sess., *House Exec. Doc. 82*, *Senate Exec. Docs. 3 and 41*, *Senate Reports 58 and 75*, 41st Cong., 2d Sess. See also Dunning, *Essays*, 239 *seq.*

An Act to promote the Reconstruction of the State of Georgia.

Be it enacted . . ., That the governor of the State of Georgia be, and hereby is, authorized and directed, forthwith, by proclamation, to summon all persons elected to the general assembly

of said State, as appears by the proclamation of George G. Meade, the general commanding the military district including the State of Georgia, dated June twenty-fifth, eighteen hundred and sixty-eight, to appear on some day certain, to be named in said proclamation, at Atlanta, in said State; and thereupon the said general assembly of said State shall proceed to perfect its organization in conformity with the Constitution and laws of the United States, according to the provisions of this act.

SEC. 2. *And be it further enacted,* That when the members so elected to said senate and house of representatives shall be convened, as aforesaid, each and every member and each and every person claiming to be elected as a member of said senate or house of representatives shall, in addition to taking the oath or oaths required by the constitution of Georgia, also take and subscribe and file in the office of the secretary of state of the State of Georgia one of the following oaths or affirmations, namely: "I do solemnly swear (or affirm, as the case may be) that I have never held the office, or exercised the duties of, a senator or representative in Congress, nor been a member of the legislature of any State of the United States, nor held any civil office created by law for the administration of any general law of a State, or for the administration of justice in any State or under the laws of the United States, nor held any office in the military or naval service of the United States, and thereafter engaged in insurrection or rebellion against the United States, or gave aid or comfort to its enemies, or rendered, except in consequence of direct physical force, any support or aid to any insurrection or rebellion against the United States, nor held any office under, or given any support to, any government of any kind organized or acting in hostility to the United States, or levying war against the United States. So help me God, (or on the pains and penalties of perjury, as the case may be.)" Or the following oath or affirmation, namely: "I do solemnly swear (or affirm, as the case may be) that I have been relieved, by an act of the Congress of the United States, from disability as provided for by section three of the fourteenth amendment to

the Constitution of the United States. So help me God, (or on the pains and penalties of perjury, as the case may be.)" . . . And every person claiming to be so elected, who shall refuse or decline or neglect or be unable to take one of said oaths or affirmations above provided, shall not be admitted to a seat in said senate or house of representatives, or to a participation in the proceedings thereof, but shall be deemed ineligible to such seats.

SEC. 3. [Penalty for falsely taking the oath, &c.]

SEC. 4. *And be it further enacted*, That the persons elected, as aforesaid, and entitled to compose such legislature, and who shall comply with the provisions of this act, by taking one of the oaths or affirmations above prescribed, shall thereupon proceed, in said senate and house of representatives to which they have been elected respectively, to reorganize said senate and house of representatives, respectively, by the election and qualification of the proper officers of each house.

SEC. 5. [Penalty for hindering by force any person from taking an oath or participating in proceedings, &c.]

SEC. 6. *And be it further enacted*, That it is hereby declared that the exclusion of any person or persons elected as aforesaid, and being otherwise qualified, from participation in the proceedings of said senate or house of representatives, upon the ground of race, color, or previous condition of servitude, would be illegal, and revolutionary, and is hereby prohibited.

SEC. 7. *And be it further enacted*, That upon the application of the governor of Georgia, the President of the United States shall employ such military or naval forces of the United States as may be necessary to enforce and execute the preceding provisions of this act.

SEC. 8. *And be it further enacted*, That the legislature shall ratify the fifteenth amendment proposed to the Constitution of the United States before senators and representatives from Georgia are admitted to seats in Congress.

APPROVED, December 22, 1869.

No. 83. Admission of Virginia to Representation in Congress

January 26, 1870

THE annual message of President Grant, December 6, 1869, urged the admission of Virginia to representation, but stated that the results of the recent elections in Mississippi and Texas were not yet known. To the proposition to rehabilitate Virginia there was strong opposition, but the wish of the President prevailed. A bill to give effect to the recommendation was reported, January 11, 1870, from the Committee on Reconstruction. On the 14th a substitute offered by Bingham was agreed to by a vote of 98 to 95, 17 not voting, and the bill passed, the final vote being 142 to 49, 19 not voting. The Senate added various amendments imposing conditions and restrictions, and passed the bill on the 21st by a vote of 47 to 10. On the 24th the House concurred in the Senate amendments, the vote being 136 to 58, 16 not voting. July 28 the military authority in Virginia ceased. Acts of February 23 and March 30 provided in similar terms for the restoration of Mississippi and Texas, and the military authority in those States was withdrawn.

REFERENCES.— *Text* in *U.S. Statutes at Large*, XVI, 62, 63. For the proceedings see the *House and Senate Journals*, 41st Cong., 2d Sess., and the *Cong. Globe*. On the opposition in Congress see Dunning, *Essays*, 234, 235.

An Act to admit the State of Virginia to Representation in the Congress of the United States.

WHEREAS the people of Virginia have framed and adopted a constitution of State government which is republican; and whereas the legislature of Virginia elected under said constitution have ratified the fourteenth and fifteenth amendments to the Constitution of the United States; and whereas the performance of these several acts in good faith was a condition precedent to the representation of the State in Congress: Therefore,

Be it enacted . . ., That the said State of Virginia is entitled to representation in the Congress of the United States: *Provided*, That before any member of the legislature of said State shall take or resume his seat, or any officer of said State shall enter upon the duties of his office, he shall take, and subscribe, and file in the office of the secretary of state of Virginia, for

permanent preservation, an oath[1] in the form following: "I, ——— ———, do solemnly swear that I have never taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, and afterward engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof, so help me God"; or such person shall in like manner take, subscribe, and file the following oath: "I, ——— ———, do solemnly swear that I have, by act of Congress of the United States, been relieved from the disabilities imposed upon me by the fourteenth amendment of the Constitution of the United States, so help me God"; . . . *And provided further*, That every such person who shall neglect for the period of thirty days next after the passage of this act to take, subscribe, and file such oath as aforesaid, shall be deemed and taken, to all intents and purposes, to have vacated his office: *And provided further*, That the State of Virginia is admitted to representation in Congress as one of the States of the Union upon the following fundamental conditions: First, That the Constitution of Virginia shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote who are entitled to vote by the Constitution herein recognized, except as a punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted under laws equally applicable to all the inhabitants of said State: *Provided*, That any alteration of said Constitution, prospective in its effects, may be made in regard to the time and place of residence of voters. Second, That it shall never be lawful for the said State to deprive any citizen of the United States, on account of his race, color, or previous condition of servitude, of the right to hold office under the constitution and laws of said State, or upon any such ground to require of him any other qualifications for office than such as are required of

[1] An amending act of February 1, 1870, provided for the usual alternative of affirmation.

all other citizens. Third, That the constitution of Virginia shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the school rights and privileges secured by the constitution of said State.

Approved, January 26, 1870.

No. 84. Fifteenth Amendment to the Constitution

March 30, 1870

"The evident and complete inefficacy of the second section of the [fourteenth] amendment was the reason for the introduction of the fifteenth amendment" (Johnston). As in the case of the previous amendments, various propositions were submitted, while the discussion of the political and constitutional theories embodied in the proposed amendment took a wide range. February 17, 1869, the Senate, after long debate, passed, by a vote of 35 to 11, a joint resolution for the submission of an amendment to the Constitution reported from the Committee on the Judiciary, January 15. February 20 the resolution in amended form passed the House, the vote being 140 to 37, 46 not voting. The Senate, by a vote of 32 to 17, disagreed to the House amendment. The conference committee rejected the amendment of the House and agreed to the Senate resolution, except the words "and to hold office," in section 1. The amendment was rejected by New Jersey, Delaware, Maryland, Kentucky, Oregon, and California, and was not acted on by Tennessee. Georgia and Ohio at first rejected it, but subsequently ratified it. The ratification of New York was later rescinded. A proclamation declaring the amendment in force was issued March 30, 1870.

References. — *Text* in *Revised Statutes* (ed. 1878), 32. For the proceedings of Congress see the *House and Senate Journals*, 40th Cong., 2d Sess., and the *Cong. Globe*. Votes of State legislatures on ratification are collected in McPherson, *Reconstruction*, 488–498, 557–562. See also Sherman, *Recollections*, I, 450, 451.

Article XV.

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

No. 85. Act to enforce the Fifteenth Amendment

May 31, 1870

A BILL to enforce the right of citizens of the United States to vote was introduced in the House, February 21, 1870, by Bingham of Ohio, and referred to the Committee on the Judiciary. May 9 a substitute was reported and the bill recommitted. The substitute measure was again reported May 16, and passed the same day, the vote being 131 to 43, 54 not voting. May 20 the Senate, after an all-night session, passed a substitute by a vote of 43 to 8, 21 not voting. The House disagreed to the Senate amendment, and a conference committee settled the final form of the bill. The report of the conference committee was agreed to by the Senate on the 25th by a vote of 48 to 11, and by the House on the 27th by a vote of 133 to 58, 39 not voting.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XVI, 140–146. For the proceedings see the *House and Senate Journals*, 41st Cong., 2d Sess., and the *Cong. Globe*. The House substitute of May 9 is in the *Globe* for May 16; the text of the Senate bill is in *ibid.*, May 20. Part of the act followed a report on New York election frauds, *House Report 31*, 40th Cong., 3d Sess. On general political conditions in the South see *House Report 37*, 41st Cong., 3d Sess.; *Senate Report 1*, 42d Cong., 1st Sess.; *House Exec. Doc. 268*, 42d Cong., 2d Sess.; *House Reports 101 and 261*, 43d Cong., 2d Sess. The Congressional documents contain numerous reports on affairs in the different States.

An Act to enforce the Right of Citizens of the United States to vote in the several States of this Union, and for other purposes.

Be it enacted . . ., That all citizens of the United States who are or shall be otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding.

SEC. 2. *And be it further enacted*, That if by or under the authority of the constitution or laws of any State, or the laws

of any Territory, any act is or shall be required to be done as a prerequisite or qualification for voting, and by such constitution or laws persons or officers are or shall be charged with the performance of duties in furnishing to citizens an opportunity to perform such prerequisite, or to become qualified to vote, it shall be the duty of every such person and officer to give to all citizens of the United States the same and equal opportunity to perform such prerequisite, and to become qualified to vote without distinction of race, color, or previous condition of servitude; [penalty for refusal].

SEC. 3. *And be it further enacted*, That whenever, by or under the authority of the constitution or laws of any State, or the laws of any Territory, any act is or shall be required to [*be*] done by any citizen as a prerequisite to qualify or entitle him to vote, the offer of any such citizen to perform the act required to be done as aforesaid shall, if it fail to be carried into execution by reason of the wrongful act or omission aforesaid of the person or officer charged with the duty of receiving or permitting such performance or offer to perform, or acting thereon, be deemed and held as a performance in law of such act; and the person so offering and failing as aforesaid, and being otherwise qualified, shall be entitled to vote in the same manner and to the same extent as if he had in fact performed such act; [penalty for wrongful refusal by officers of elections to receive the vote of such person upon affidavit, &c.].

SEC. 4. *And be it further enacted*, That if any person, by force, bribery, threats, intimidation, or other unlawful means, shall hinder, delay, prevent, or obstruct, or shall combine and confederate with others to hinder, delay, prevent, or obstruct, any citizen from doing any act required to be done to qualify him to vote or from voting at any election as aforesaid, such person shall for every such offence forfeit and pay the sum of five hundred dollars to the person aggrieved thereby, . . . and shall also for every such offence be guilty of a misdemeanor, and shall, on conviction thereof, be fined not less than five hundred dollars, or be imprisoned not less than one month

and not more than one year, or both, at the discretion of the court.

Sec. 5. *And be it further enacted*, That if any person shall prevent, hinder, control, or intimidate, or shall attempt to prevent, hinder, control, or intimidate, any person from exercising or in exercising the right of suffrage, to whom the right of suffrage is secured or guaranteed by the fifteenth amendment to the Constitution of the United States, by means of bribery, threats, or threats of depriving such person of employment or occupation, or of ejecting such person from rented house, lands, or other property, or by threats of refusing to renew leases or contracts for labor, or by threats of violence to himself or family, such person so offending shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be fined not less than five hundred dollars, or be imprisoned not less than one month and not more than one year, or both, at the discretion of the court.

Sec. 6. *And be it further enacted*, That if two or more persons shall band or conspire together, or go in disguise upon the public highway, or upon the premises of another, with intent to violate any provision of this act, or to injure, oppress, threaten, or intimidate any citizen with intent to prevent or hinder his free exercise and enjoyment of any right or privilege granted or secured to him by the Constitution or laws of the United States, or because of his having exercised the same, such persons shall be held guilty of felony, and, on conviction thereof, shall be fined or imprisoned, or both, at the discretion of the court, — the fine not to exceed five thousand dollars, and the imprisonment not to exceed ten years, — and shall, moreover, be thereafter ineligible to, and disabled from holding, any office or place of honor, profit, or trust created by the Constitution or laws of the United States.

Sec. 7. *And be it further enacted*, That if in the act of violating any provision in either of the two preceding sections, any other felony, crime, or misdemeanor shall be committed, the offender, on conviction of such violation of said sections, shall

be punished for the same with such punishments as are attached to the said felonies, crimes, and misdemeanors by the laws of the State in which the offence may be committed.

SEC. 8. *And be it further enacted*, That the district courts of the United States, within their respective districts, shall have, exclusively of the courts of the several States, cognizance of all crimes and offences committed against the provisions of this act, and also, concurrently with the circuit courts of the United States, of all causes, civil and criminal, arising under this act, except as herein otherwise provided, and the jurisdiction hereby conferred shall be exercised in conformity with the laws and practice governing United States courts; and all crimes and offences committed against the provisions of this act may be prosecuted by the indictment of a grand jury, or, in cases of crimes and offences not infamous, the prosecution may be either by indictment or information filed by the district attorney in a court having jurisdiction.

SEC. 9. *And be it further enacted*, That the district attorneys, marshals, and deputy marshals of the United States, the commissioners appointed by the circuit and territorial courts of the United States, with powers of arresting, imprisoning, or bailing offenders against the laws of the United States, and every other officer who may be specially empowered by the President of the United States, shall be, and they are hereby, specially authorized and required, at the expense of the United States, to institute proceedings against all and every person who shall violate the provisions of this act, and cause him or them to be arrested and imprisoned, or bailed, as the case may be, for trial before such court of the United States or territorial court as has cognizance of the offence. [Number of commissioners of circuit and territorial courts to be increased.]

SEC. 10. [Marshals and deputies to execute all warrants, &c.] And the better to enable the said commissioners to execute their duties faithfully and efficiently, in conformity with the Constitution of the United States and the requirements of this act, they are hereby authorized and empowered, within their districts re-

spectively, to appoint, in writing, under their hands, any one or more suitable persons, from time to time, to execute all such warrants and other process as may be issued by them in the lawful performance of their respective duties, and the persons so appointed . . . shall have authority to summon and call to their aid the bystanders or posse comitatus of the proper county, or such portion of the land or naval forces of the United States, or of the militia, as may be necessary to the performance of the duty with which they are charged, and to insure a faithful observance of the fifteenth amendment to the Constitution of the United States; and such warrants shall run and be executed by said officers anywhere in the State or Territory within which they are issued.

SEC. 11. [Penalty for obstructing the execution of process, attempting to rescue any person arrested, or harboring any person for whom a warrant has been issued.]

SEC. 12. [Fees, &c.]

SEC. 13. *And be it further enacted,* That it shall be lawful for the President of the United States to employ such part of the land or naval forces of the United States, or of the militia, as shall be necessary to aid in the execution of judicial process issued under this act.

SEC. 14. *And be it further enacted,* That whenever any person shall hold office, except as a member of Congress or of some State legislature, contrary to the provisions of the third section of the fourteenth article of amendment of the Constitution of the United States, it shall be the duty of the district attorney of the United States for the district in which such person shall hold office, as aforesaid, to proceed against such person, by writ of quo warranto, returnable to the circuit or district court of the United States in such district, and to prosecute the same to the removal of such person from office; and any writ of quo warranto so brought, as aforesaid, shall take precedence of all other cases on the docket of the court to which it is made returnable, and shall not be continued unless for cause proved to the satisfaction of the court.

SEC. 15. *And be it further enacted,* That any person who shall hereafter knowingly accept or hold any office under the United States, or any State to which he is ineligible under the third section of the fourteenth article of amendment of the Constitution of the United States, or who shall attempt to hold or exercise the duties of any such office, shall be deemed guilty of a misdemeanor against the United States, and, upon conviction thereof before the circuit or district court of the United States, shall be imprisoned not more than one year, or fined not exceeding one thousand dollars, or both, at the discretion of the court.

SEC. 16. *And be it further enacted,* That all persons within the jurisdiction of the United States shall have the same right in every State and Territory in the United States to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and none other, any law, statute, ordinance, regulation, or custom to the contrary notwithstanding. No tax or charge shall be imposed or enforced by any State upon any person immigrating thereto from a foreign country which is not equally imposed and enforced upon every person immigrating to such State from any other foreign country; and any law of any State in conflict with this provision is hereby declared null and void.

SEC. 17. [Penalty for violation of the preceding section.]

SEC. 18. *And be it further enacted,* That the act to protect all persons in the United States in their civil rights, and furnish the means of their vindication, passed April nine, eighteen hundred and sixty-six, is hereby re-enacted; and sections sixteen and seventeen hereof shall be enforced according to the provisions of said act.

SEC. 19. *And be it further enacted,* That if at any election for representative or delegate in the Congress of the United States any person shall knowingly personate and vote, or attempt to vote, in the name of any other person, whether

living, dead, or fictitious; or vote more than once at the same election for any candidate for the same office; or vote at a place where he may not be lawfully entitled to vote; or vote without having a lawful right to vote; or do any unlawful act to secure a right or an opportunity to vote for himself or any other person; or by force, threat, menace, intimidation, bribery, reward, or offer, or promise thereof, or otherwise unlawfully prevent any qualified voter of any State of the United States of America, or of any Territory thereof, from freely exercising the right of suffrage, or by any such means induce any voter to refuse to exercise such right; or compel or induce by any such means, or otherwise, any officer of an election in any such State or Territory to receive a vote from a person not legally qualified or entitled to vote; or interfere in any manner with any officer of said elections in the discharge of his duties; or by any of such means, or other unlawful means, induce any officer of an election, or officer whose duty it is to ascertain, announce, or declare the result of any such election, or give or make any certificate, document, or evidence in relation thereto, to violate or refuse to comply with his duty, or any law regulating the same; or knowingly and wilfully receive the vote of any person not entitled to vote, or refuse to receive the vote of any person entitled to vote; or aid, counsel, procure, or advise any such voter, person, or officer to do any act hereby made a crime, or to omit to do any duty the omission of which is hereby made a crime, or attempt to do so, every such person shall be deemed guilty of a crime, and shall for such crime be liable to prosecution in any court of the United States of competent jurisdiction, and, on conviction thereof, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment for a term not exceeding three years, or both, in the discretion of the court, and shall pay the costs of prosecution.

Sec. 20. [Penalty for similar unlawful acts in and concerning the registration of voters.[1]] *Provided*, That every registration made under the laws of any State or Territory, for any State or

[1] Amended by act of February 28, 1871, section 1.

other election at which such representative or delegate in Congress shall be chosen, shall be deemed to be a registration within the meaning of this act, notwithstanding the same shall also be made for the purpose of any State, territorial, or municipal election.

SEC. 21. *And be it further enacted,* That, whenever, by the laws of any State or Territory, the name of any candidate or person to be voted for as representative or delegate in Congress shall be required to be printed, written, or contained in any ticket or ballot with other candidates or persons to be voted for at the same election for State, territorial, municipal, or local officers, it shall be sufficient prima facie evidence, either for the purpose of indicting or convicting any person charged with voting, or attempting or offering to vote, unlawfully under the provisions of the preceding sections, or for committing either of the offenses thereby created, to prove that the person so charged or indicted, voted, or attempted or offered to vote, such ballot or ticket, or committed either of the offenses named in the preceding sections of this act with reference to such ballot. And the proof and establishment of such facts shall be taken, held, and deemed to be presumptive evidence that such person voted, or attempted or offered to vote, for such representative or delegate, as the case may be, or that such offense was committed with reference to the election of such representative or delegate, and shall be sufficient to warrant his conviction, unless it shall be shown that any such ballot, when cast, or attempted or offered to be cast, by him, did not contain the name of any candidate for the office of representative or delegate in the Congress of the United States, or that such offense was not committed with reference to the election of such representative or delegate.

SEC. 22. [Penalty for the refusal of any officer of election to do his duty, for making false return, &c.]

SEC. 23. *And be it further enacted,* That whenever any person shall be defeated or deprived of his election to any office, except elector of President or Vice-president, representative or delegate in Congress, or member of a State legislature, by reason

of the denial to any citizen or citizens who shall offer to vote, of the right to vote, on account of race, color, or previous condition of servitude, his right to hold and enjoy such office, and the emoluments thereof, shall not be impaired by such denial; and such person may bring any appropriate suit or proceeding to recover possession of such office, and in cases where it shall appear that the sole question touching the title to such office arises out of the denial of the right to vote to citizens who so offered to vote, on account of race, color, or previous condition of servitude, such suit or proceeding may be instituted in the circuit or district court of the United States of the circuit or district in which such person resides. And said circuit or district court shall have, concurrently with the State courts, jurisdiction thereof so far as to determine the rights of the parties to such office by reason of the denial of the right guaranteed by the fifteenth article of amendment to the Constitution of the United States, and secured by this act.

Approved, May 31, 1870.

No. 86. Redemption and Bank Note Act

July 12, 1870

The great inequalities in the distribution of the national bank note circulation among the States, and the action of the Comptroller of the Currency under the act of March 3, 1865, led to the introduction of various bills relating to the subject. A bill "to provide a national currency of coin notes, and to equalize the distribution of circulating notes," was reported in the Senate, January 11, 1870, by John Sherman, from the Committee on Finance, and passed with amendments, February 2, by a vote of 39 to 23. Various substitutes offered in the House were rejected, and the bill with amendments passed that body, June 15, by a vote of 99 to 81, 50 not voting. The Senate refused to concur in the action of the House. The report of a conference committee was disagreed to by the House, June 29, the vote being 53 to 127, 49 not voting. The report of a second committee was agreed to by the Senate July 6, without a division, and by the House July 7, by a vote of 100 to 77, 53 not voting.

References. — *Text* in *U.S. Statutes at Large*, XVI, 251–254. For the proceedings see the *House and Senate Journals*, 41st Cong., 2d Sess., and the

Cong. Globe. The text of the Senate bill is in the *Globe*, January 24; on the reasons for the bill, and its scope, see particularly Sherman's remarks, *ibid.*

An Act to provide for the Redemption of the three per cent. temporary Loan Certificates, and for an Increase of national Bank Notes.

Be it enacted . . ., That fifty-four millions of dollars in notes for circulation may be issued to national banking associations, in addition to the three hundred millions of dollars authorized by the twenty-second section of the . . . [National Bank Act] . . .; and the amount of notes so provided shall be furnished to banking associations organized or to be organized in those States and Territories having less than their proportion under the apportionment contemplated by the provisions of the . . . [act of March 3, 1865, amending the National Bank Act] . . ., and the bonds deposited with the treasurer of the United States, to secure the additional circulating notes herein authorized, shall be of any description of bonds of the United States bearing interest in coin, but a new apportionment of the increased circulation herein provided for shall be made as soon as practicable, based upon the census of eighteen hundred and seventy: *Provided*, That if applications for the circulation herein authorized shall not be made within one year after the passage of this act by banking associations organized or to be organized in States having less than their proportion, it shall be lawful for the comptroller of the currency to issue such circulation to banking associations applying for the same in other States or Territories having less than their proportion, giving the preference to such as have the greatest deficiency: *And provided further*, That no banking association hereafter organized shall have a circulation in excess of five hundred thousand dollars.

Sec. 2. *And be it further enacted*, That at the end of each month after the passage of this act it shall be the duty of the comptroller of the currency to report to the Secretary of the Treasury the amount of circulating notes issued, under the pro-

visions of the preceding section, to national banking associations during the previous month; whereupon the Secretary of the Treasury shall redeem and cancel an amount of the three per centum temporary loan certificates issued under the acts of March two, eighteen hundred and sixty-seven, and July twenty-five, eighteen hundred and sixty-eight, not less than the amount of circulating notes so reported, and may, if necessary, in order to procure the presentation of such temporary loan certificates for redemption, give notice to the holders thereof, by publication or otherwise, that certain of said certificates (which shall be designated by number, date, and amount) shall cease to bear interest from and after a day to be designated in such notice, and that the certificates so designated shall no longer be available as any portion of the lawful money-reserve in possession of any national banking association, and after the day designated in such notice no interest shall be paid on such certificates, and they shall not thereafter be counted as a part of the reserve of any banking association.

SEC. 3. *And be it further enacted*, That upon the deposit of any United States bonds, bearing interest payable in gold, with the treasurer of the United States, in the manner prescribed in the nineteenth and twentieth sections of the national currency act, it shall be lawful for the comptroller of the currency to issue to the association making the same, circulating notes of different denominations, not less than five dollars, not exceeding in amount eighty per centum of the par value of the bonds deposited, which notes shall bear upon their face the promise of the association to which they are issued to pay them, upon presentation at the office of the association, in gold coin of the United States, and shall be redeemable upon such presentation in such coin: *Provided*, That no banking association organized under this section shall have a circulation in excess of one million of dollars.[1]

SEC. 4. *And be it further enacted*, That every national banking association formed under the provisions of the preceding

[1] The limitation on circulation was removed by an act of January 19, 1875.

section of this act shall at all times keep on hand not less than twenty-five per centum of its outstanding circulation in gold or silver coin of the United States, and shall receive at par in the payment of debts the gold notes of every other such banking association which at the time of such payments shall be redeeming its circulating notes in gold coin of the United States.

SEC. 5. *And be it further enacted*, That every association organized for the purpose of issuing gold notes as provided in this act shall be subject to all the requirements and provisions of the national currency act, except the first clause of section twenty-two, which limits the circulation of national banking associations to three hundred millions of dollars; the first clause of section thirty-two, which, taken in connection with the preceding section, would require national banking associations organized in the city of San Francisco to redeem their circulating notes at par in the city of New York; and the last clause of section thirty-two, which requires every national banking association to receive in payment of debts the notes of every other national banking association at par: *Provided*, That in applying the provisions and requirements of said act to the banking associations herein provided for, the terms "lawful money," and "lawful money of the United States," shall be held and construed to mean gold or silver coin of the United States.

APPROVED, July 12, 1870.

No. 87. Naturalization Act

July 14, 1870

NUMEROUS proposals to amend the naturalization laws came before Congress during the session of 1869–1870, called out in part by the recent election frauds in New York. Bills introduced February 2 and March 2, 1870, by Noah Davis of New York, from the Committee on the Judiciary, were recommitted. A new bill was introduced by Davis June 13, and passed the same day under suspension of the rules by a vote of 130 to 49, 51 not voting. This

was the bill as finally passed, except the last three sections. A substitute was reported in the Senate on the 18th. July 4, by a vote of 21 to 20, amendments extending the privilege of naturalization to African aliens and persons of African descent, and providing for supervisors and deputies in certain cases, were agreed to, and the bill passed, the final vote being 33 to 8. The House, by a vote of 132 to 53, 45 not voting, concurred in the amendments of the Senate. There was strong opposition to the bill in both houses.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XVI, 254–256. For the proceedings see the *House and Senate Journals*, 41st Cong., 2d Sess., and the *Cong. Globe*. On the election frauds in New York see *House Report 31*, 40th Cong., 3d Sess. See further Wharton, *International Law Digest*, II, chap. 7.

An Act to amend the Naturalization Laws and to punish Crimes against the same, and for other Purposes.

Be it enacted . . ., That in all cases where any oath, affirmation, or affidavit shall be made or taken under or by virtue of any act or law relating to the naturalization of aliens, or in any proceedings under such acts or laws, and any person or persons taking or making such oath, affirmation, or affidavit, shall knowingly swear or affirm falsely, the same shall be deemed and taken to be perjury, and the person or persons guilty thereof shall upon conviction thereof be sentenced to imprisonment for a term not exceeding five years and not less than one year, and to a fine not exceeding one thousand dollars.

SEC. 2. *And be it further enacted*, That if any person applying to be admitted a citizen, or appearing as a witness for any such person, shall knowingly personate any other person than himself, or falsely appear in the name of a deceased person, or in an assumed or fictitious name, or if any person shall falsely make, forge, or counterfeit any oath, affirmation, notice, affidavit, certificate, order, record, signature, or other instrument, paper, or proceeding required or authorized by any law or act relating to or providing for the naturalization of aliens; or shall utter, sell, dispose of, or use as true or genuine, or for any unlawful purpose, any false, forged, ante-dated, or counterfeit oath, affirmation, notice, certificate, order, record, signature, instrument, paper, or proceeding as aforesaid; or sell or dispose of to any

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person other than the person for whom it was originally issued, any certificate of citizenship, or certificate showing any person to be admitted a citizen; or if any person shall in any manner use for the purpose of registering as a voter, or as evidence of a right to vote, or otherwise, unlawfully, any order, certificate of citizenship, or certificate, judgment, or exemplification, showing such person to be admitted to be a citizen, whether heretofore or hereafter issued or made, knowing that such order or certificate, judgment, or exemplification has been unlawfully issued or made; or if any person shall unlawfully use, or attempt to use, any such order or certificate, issued to or in the name of any other person, or in a fictitious name, or the name of a deceased person; or use, or attempt to use, or aid, or assist, or participate in the use of any certificate of citizenship, knowing the same to be forged, or counterfeit, or ante-dated, or knowing the same to have been procured by fraud, or otherwise unlawfully obtained; or if any person, and without lawful excuse, shall knowingly have or be possessed of any false, forged, ante-dated, or counterfeit certificate of citizenship, purporting to have been issued under the provisions of any law of the United States relating to naturalization, knowing such certificate to be false, forged, ante-dated, or counterfeit, with intent unlawfully to use the same; or if any person shall obtain, accept, or receive any certificate of citizenship known to such person to have been procured by fraud or by the use of any false name, or by means of any false statement made with intent to procure, or to aid in procuring, the issue of such certificate, or known to such person to be fraudulently altered or ante-dated; or if any person who has been or may be admitted to be a citizen shall, on oath or affirmation, or by affidavit, knowingly deny that he has been so admitted, with intent to evade or avoid any duty or liability imposed or required by law, every person so offending shall be deemed and adjudged guilty of felony, and, on conviction thereof, shall be sentenced to be imprisoned and kept at hard labor for a period not less than one year nor more than five years, or be fined in a sum not less than three hundred dollars nor more

than one thousand dollars, or both such punishments may be imposed, in the discretion of the court. And every person who shall knowingly and intentionally aid or abet any person in the commission of any such felony, or attempt to do any act hereby made felony, or counsel, advise, or procure, or attempt to procure, the commission thereof, shall be liable to indictment and punishment in the same manner and to the same extent as the principal party guilty of such felony, and such person may be tried and convicted thereof without the previous conviction of such principal.

SEC. 4. *And be it further enacted,* That the provisions of this act shall apply to all proceedings had or taken, or attempted to be had or taken, before any court in which any proceeding for naturalization shall be commenced, had, or taken, or attempted to be commenced; and the courts of the United States shall have jurisdiction of all offenses under the provisions of this act, in or before whatsoever court or tribunal the same shall have been committed.

SEC. 5.[1] *And be it further enacted,* That in any city having upwards of twenty thousand inhabitants, it shall be the duty of the judge of the circuit court of the United States for the circuit wherein said city shall be, upon the application of two citizens, to appoint in writing for each election district or voting precinct in said city, and to change or renew said appointment as occasion may require, from time to time, two citizens resident of the district or precinct, one from each political party, who, when so designated, shall be, and are hereby, authorized to attend at all times and places fixed for the registration of voters, who, being registered, would be entitled to vote for representatives in Congress, and at all times and places for holding elections of representatives in Congress, and for counting the votes cast at said elections, and to challenge any name proposed to be registered, and any vote offered, and to be present and witness throughout the counting of all votes, and to remain where the ballot-boxes are kept at all times after the polls are open until the votes are

[1] Repealed by act of February 28, 1871, section 18 (*post*, p. 261).

finally counted; and said persons and either of them shall have the right to affix their signature or his signature to said register for purposes of identification, and to attach thereto, or to the certificate of the number of votes cast, and [any] statement touching the truth or fairness thereof which they or he may ask to attach; and any one who shall prevent any person so designated from doing any of the acts authorized as aforesaid, or who shall hinder or molest any such person in doing any of the said acts, or shall aid or abet in preventing, hindering, or molesting any such person in respect of any such acts, shall be guilty of a misdemeanor, and on conviction shall be punished by imprisonment not less than one year.

SEC. 6.[1] *And be it further enacted*, That in any city having upwards of twenty thousand inhabitants, it shall be lawful for the marshal of the United States for the district wherein said city shall be, to appoint as many special deputies as may be necessary to preserve order at any election at which representatives in Congress are to be chosen; and said deputies are hereby authorized to preserve order at such elections, and to arrest for any offence or breach of the peace committed in their view.

SEC. 7. *And be it further enacted*, That the naturalization laws are hereby extended to aliens of African nativity and to persons of African descent.

APPROVED, July 14, 1870.

No. 88. Act for refunding the National Debt

July 14, 1870

IN his annual report of December 6, 1869, the Secretary of the Treasury called attention to the fact that the bonds known as 5-20's, amounting to $1,602,671,100, were either redeemable or soon to become redeemable. A bill to provide for refunding the national debt was introduced in the Senate by Sumner January 12, 1870, and referred to the Committee on Finance, which

[1] Repealed by act of February 28, 1871, section 18 (*post*, p. 261).

reported February 3, through Sherman, a substitute. The matter formed one of the principal subjects of discussion for the remainder of the session. The substitute bill with amendments passed the Senate, March 11, by a vote of 32 to 10. The House left the bill without action until July 1, when a substitute reported by Schenck, from the Committee of Ways and Means, was agreed to, the final vote being 129 to 42, 58 not voting. The chief difference between the two bills was in the character of the bonds to be issued. The Senate refused to accept the substitute of the House. A report of a conference committee, July 12, being the act as approved with an additional section requiring the deposit of registered bonds as security for bank circulation, was rejected by the House by a vote of 88 to 103. A second report was agreed to the next day, in the House by a vote of 139 to 54, 37 not voting, and in the Senate without a division. An amending act of January 20, 1871, increased the amount of five per cent bonds to $500,000,000, but without increasing the total issue.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XVI, 272–274. For the proceedings see the *House and Senate Journals*, 41st Cong., 2d Sess., and the *Cong. Globe*. On Sumner's bill see his remarks in the *Globe*, January 12; on the Senate substitute, Sherman's remarks, *ibid.*, February 28, and *Senate Report 4*. Cf. Sherman's strictures on the act in his *Recollections*, I, 451–458. On the funding of the debt see Dewey, *Financial History*, chap. 14, and references there given. See also *House Exec. Doc. 207*, 43d Cong., 1st Sess.; *House Report 951*, 50th Cong., 1st Sess.

An Act to authorize the Refunding of the national Debt.

Be it enacted . . ., That the Secretary of the Treasury is hereby authorized to issue, in a sum or sums not exceeding in the aggregate two hundred million dollars, coupon or registered bonds of the United States, in such form as he may prescribe, and of denominations of fifty dollars, or some multiple of that sum, redeemable in coin of the present standard value, at the pleasure of the United States, after ten years from the date of their issue, and bearing interest, payable semiannually in such coin, at the rate of five per cent. per annum; also a sum or sums not exceeding in the aggregate three hundred million dollars of like bonds, the same in all respects, but payable at the pleasure of the United States, after fifteen years from the date of their issue, and bearing interest at the rate of four and a half per cent. per annum; also a sum or sums not exceeding in the

aggregate one thousand million dollars of like bonds, the same in all respects, but payable at the pleasure of the United States, after thirty years from the date of their issue, and bearing interest at the rate of four per cent. per annum; all of which said several classes of bonds and the interest thereon shall be exempt from the payment of all taxes or duties of the United States, as well as from taxation in any form by or under State, municipal, or local authority; and the said bonds shall have set forth and expressed upon their face the above-specified conditions, and shall, with their coupons, be made payable at the treasury of the United States. But nothing in this act, or in any other law now in force, shall be construed to authorize any increase whatever of the bonded debt of the United States.

SEC. 2. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized to sell and dispose of any of the bonds issued under this act, at not less than their par value for coin, and to apply the proceeds thereof to the redemption of any of the bonds of the United States outstanding, and known as five-twenty bonds, at their par value, or he may exchange the same for such five-twenty bonds, par for par; but the bonds hereby authorized shall be used for no other purpose whatsoever. . . .[1]

SEC. 3. [Payment of bonds, in what amounts, how determined, &c.]

SEC. 4. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized, with any coin in the treasury of the United States which he may lawfully apply to such purpose,

[1] An act of January 25, 1879, provided "that the Secretary of the Treasury is hereby authorized in the process of refunding the national debt under existing laws to exchange directly at par the bonds of the United States bearing interest at four per centum per annum authorized by law for the bonds of the United States commonly known as five-twenties outstanding and uncalled, and, whenever all such five-twenty bonds shall have been redeemed, the provisions of this section and all existing provisions of law authorizing the refunding of the national debt shall apply to any bonds of the United States bearing interest at five per centum per annum or a higher rate, which may be redeemable. In any exchange made under the provisions of this section interest may be allowed, on the bonds redeemed, for a period of three months."

or which may be derived from the sale of any of the bonds, the issue of which is provided for in this act, to pay at par and cancel any six per cent. bonds of the United States of the kind known as five-twenty bonds, which have become or shall hereafter become redeemable by the terms of their issue. . . .

SEC. 5. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized, at any time within two years from the passage of this act, to receive gold coin of the United States on deposit for not less than thirty days, in sums of not less than one hundred dollars, with the Treasurer, or any assistant treasurer of the United States authorized by the Secretary of the Treasury to receive the same, who shall issue therefor certificates of deposit, made in such form as the Secretary of the Treasury shall prescribe, and said certificates of deposit shall bear interest at a rate not exceeding two and a half per cent. per annum; and any amount of gold coin so deposited may be withdrawn from deposit at any time after thirty days from the date of deposit, and after ten days' notice and on the return of said certificates: *Provided*, That the interest on all such deposits shall cease and determine at the pleasure of the Secretary of the Treasury. And not less than twenty-five per cent. of the coin deposited for or represented by said certificates of deposits shall be retained in the treasury for the payment of said certificates; and the excess beyond twenty-five per cent. may be applied at the discretion of the Secretary of the Treasury to the payment or redemption of such outstanding bonds of the United States heretofore issued and known as the five-twenty bonds, as he may designate under the provisions of the fourth section of this act; and any certificates of deposit issued as aforesaid, may be received at par with the interest accrued thereon in payment for any bonds authorized to be issued by this act.

SEC. 6. [Bonds purchased and held in the treasury under act of February 25, 1862, and other bonds hereafter purchased and held, &c., to be destroyed.]

APPROVED, July 14, 1870.

No. 89. Act for the Restoration of Georgia

July 15, 1870

A BILL for the restoration of Georgia, similar in purport to the acts for the restoration of Mississippi and Texas, was reported in the House, February 25, 1870, by Butler of Massachusetts, from the Committee on Reconstruction, and passed, March 8, by a vote of 115 to 71, 34 not voting. The Senate added section 2 of the act, and further amendments declaring the existing government of the State provisional, directing the holding of a new election, and authorizing the President to suppress disorder. The amended bill passed the Senate, April 19, by a vote of 27 to 25. The bill was left without further action until June 24, when the House Committee on Reconstruction reported in favor of the passage of the House bill with amendments. The Senate refused to concur, and the final form of the bill was settled by a conference committee. The report of the committee was accepted by both houses, July 14, without a division.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XVI, 363, 364. For the proceedings see the *House and Senate Journals*, 41st Cong., 2d Sess., and the *Cong. Globe*. On political conditions in Georgia see *House Exec. Doc. 288*.

An Act relating to the State of Georgia.

Be it enacted . . ., That the State of Georgia having complied with the reconstruction acts, and the fourteenth and fifteenth articles of amendments to the Constitution of the United States having been ratified in good faith by a legal legislature of said State, it is hereby declared that the State of Georgia is entitled to representation in the Congress of the United States. But nothing in this act contained shall be construed to deprive the people of Georgia of the right to an election for members of the general assembly of said State, as provided for in the Constitution thereof; and nothing in this or any other act of Congress shall be construed to affect the term to which any officer has been appointed or any member of the general assembly elected as prescribed by the Constitution of the State of Georgia.

SEC. 2. *And be it further enacted*, That so much of the act entitled "An act making appropriations for the support of the army for the year ending June thirty, eighteen hundred and

sixty-eight, and for other purposes," approved March two, eighteen hundred and sixty-seven, as prohibits the organization, arming, or calling into service of the militia forces in the States of Georgia, Mississippi, Texas, and Virginia, be, and the same is hereby, repealed.

APPROVED, July 15, 1870.

No. 90. San Domingo Commissioners

January 12, 1871

THE question of the annexation of the island of Dominica, or San Domingo, began to be widely discussed in 1869. A commissioner, Orville E. Babcock, was sent to the island by President Grant, and November 29 a treaty of annexation was concluded. The treaty was ratified by San Domingo, but the opposition in the United States was strong. In a special message of May 31, 1870, Grant, who had throughout strongly favored annexation, urged ratification, but June 30 the treaty was rejected by the Senate. In his annual message of December 5 Grant discussed the matter at length, and suggested that Congress authorize the appointment of a commission to negotiate for the acquisition of the island. December 9 Sumner submitted in the Senate a resolution calling for papers and correspondence, and also for a considerable variety of information about San Domingo. On the 12th a resolution substantially identical with the one finally agreed upon was introduced by Oliver P. Morton of Indiana, and on the 21st, after an all-night session, passed by a vote of 32 to 9, 30 not voting. The House, by a vote of 108 to 76, 50 not voting, added the proviso of section 3, and on January 10 agreed to the resolution as amended, the vote being 123 to 63, 47 not voting. The next day the Senate, by a vote of 57 to 0, concurred. Sumner's resolution was agreed to January 4. The report of the commissioners was transmitted to Congress April 5; but Grant, though still maintaining his opinion in favor of annexation, recognized the divided state of public opinion, and recommended that Congress take no immediate action beyond printing the report.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XVI, 591. For the proceedings see the *House and Senate Journals*, 41st Cong., 3d Sess., and the *Cong. Globe*. The report of the commissioners is *Senate Exec. Doc. 9*, 42d Cong., 1st Sess.; see also *Senate Misc. Doc. 35, ibid.; Senate Exec. Doc. 53*, 42d Cong., 2d Sess.; *Senate Exec. Doc. 17* and *House Exec. Docs. 42 and 43*, 41st Cong., 3d Sess.; Pierce, *Sumner*, IV, chaps. 55 and 56.

A Resolution authorizing the Appointment of Commissioners in Relation to the Republic of Dominica.

Resolved . . ., That the President of the United States be authorized to appoint three commissioners, and also a secretary, the latter to be versed in the English and Spanish languages, to proceed to the island of San Domingo, and to such other places, if any, as such commissioners may deem necessary, and there to inquire into, ascertain, and report the political state and condition of the republic of Dominica, the probable number of inhabitants, and the desire and disposition of the people of the said republic to become annexed to and to form part of the people of the United States; the physical, mental, and moral condition of the said people, and their general condition as to material wealth and industrial capacity; the resources of the country; its mineral and agricultural products; the products of its waters and forests; the general character of the soil; the extent and proportion thereof capable of cultivation; the climate and health of the country; its bays, harbors, and rivers; its general meteorological character, and the existence and frequency of remarkable meteorological phenomena; the debt of the government and its obligations, whether funded, and ascertained, and admitted, or unadjusted and under discussion; treaties or engagements with other powers; extent of boundaries and territory; what proportion is covered by foreign claimants or by grants or concessions, and generally what concessions or franchises have been granted, with the names of the respective grantees; the terms and conditions on which the Dominican government may desire to be annexed to and become part of the United States as one of the Territories thereof; such other information with respect to the said government or its territories as to the said commissioners shall seem desirable or important with reference to the future incorporation of the said Dominican republic into the United States as one of its Territories.

Sec. 2. *And be it further resolved*, That the said commissioners shall, as soon as conveniently may be, report to the

President of the United States, who shall lay the report before Congress.

SEC. 3. *And be it further resolved,* That the said commissioners shall serve without compensation, except the payment of expenses . . .: *Provided,* That nothing in these resolutions contained shall be held, understood, or construed as committing Congress to the policy of annexing the territory of said republic of Dominica.

APPROVED, January 12, 1871.

No. 91. Supplementary Act to enforce the Fifteenth Amendment

February 28, 1871

A BILL to amend the act of May 31, 1870, commonly known as the "Force Bill," was introduced in the House, January 9, 1871, by John C. Churchill of New York, and referred to the Committee on the Judiciary. February 15 a substitute offered by Bingham of Ohio was agreed to with amendments, and the bill passed, the final vote being 144 to 64, 32 not voting. The Senate passed the bill on the 24th without amendment by a vote of 39 to 10, 25 not voting. The act was further supplemented by a provision of the civil appropriation act of June 10, 1872 [No. 95].

REFERENCES. — *Text* in *U.S. Statutes at Large*, XVI, 433–440. For the proceedings see the *House and Senate Journals*, 41st Cong., 3d Sess., and the *Cong. Globe.*

An Act to amend an Act approved May thirty-one, eighteen hundred and seventy, entitled "An Act to enforce the Rights of Citizens of the United States to vote in the several States of this Union, and for other Purposes."

Be it enacted . . ., That section twenty of the . . . [act of May 31, 1870] . . . shall be, and hereby is, amended so as to read as follows: —

"SEC. 20. *And be it further enacted,* That if, [at] any registration of voters for an election for representative or delegate in the Congress of the United States, any person shall know-

ingly personate and register, or attempt to register, in the name of any other person, whether living, dead, or fictitious, or fraudulently register, or fraudulently attempt to register, not having a lawful right so to do; or do any unlawful act to secure registration for himself or any other person; or by force, threat, menace, intimidation, bribery, reward, or offer, or promise thereof, or other unlawful means, prevent or hinder any person having a lawful right to register from duly exercising such right; or compel or induce, by any of such means, or other unlawful means, any officer of registration to admit to registration any person not legally entitled thereto, or interfere in any manner with any officer of registration in the discharge of his duties, or by any such means, or other unlawful means, induce any officer of registration to violate or refuse to comply with his duty or any law regulating the same; or if any such officer shall knowingly and wilfully register as a voter any person not entitled to be registered, or refuse to so register any person entitled to be registered; or if any such officer or other person whose duty it is to perform any duty in relation to such registration or election, or to ascertain, announce, or declare the result thereof, or give or make any certificate, document, or evidence in relation thereto, shall knowingly neglect or refuse to perform any duty required by law, or violate any duty imposed by law, or do any act unauthorized by law relating to or affecting such registration or election, or the result thereof, or any certificate, document, or evidence in relation thereto, or if any person shall aid, counsel, procure, or advise any such voter, person, or officer to do any act hereby made a crime, or to omit any act the omission of which is hereby made a crime, every such person shall be deemed guilty of a crime, and shall be liable to prosecution and punishment therefor as provided in section nineteen of said act of May thirty-one, eighteen hundred and seventy, for persons guilty of any of the crimes therein specified: *Provided*, That every registration made under the laws of any State or Territory for any State or other election at which such representative or delegate in Congress shall be chosen, shall be

deemed to be a registration within the meaning of this act, notwithstanding the same shall also be made for the purposes of any State, territorial, or municipal election."

SEC. 2. *And be it further enacted,* That whenever in any city or town having upward of twenty thousand inhabitants, there shall be two citizens thereof who, prior to any registration of voters for an election for representative or delegate in the Congress of the United States, or prior to any election at which a representative or delegate in Congress is to be voted for, shall make known, in writing, to the judge of the circuit court of the United States for the circuit wherein such city or town shall be, their desire to have said registration, or said election, or both, guarded and scrutinized, it shall be the duty of the said judge of the circuit court, within not less than ten days prior to said registration, if one there be, or, if no registration be required, within not less than ten days prior to said election, to open the said circuit court at the most convenient point in said circuit. And the said court, when so opened by said judge, shall proceed to appoint and commission, from day to day and from time to time, and under the hand of the said circuit judge, and under the seal of said court, for each election district or voting precinct in each and every such city or town as shall, in the manner herein prescribed, have applied therefor, and to revoke, change, or renew said appointment from time to time, two citizens, residents of said city or town, who shall be of different political parties, and able to read and write the English language, and who shall be known and designated as supervisors of election. And the said circuit court, when opened by the said circuit judge as required herein, shall therefrom and thereafter, and up to and including the day following the day of election, be always open for the transaction of business under this act, and the powers and jurisdiction hereby granted and conferred shall be exercised as well in vacation as in term time; and a judge sitting at chambers shall have the same powers and jurisdiction, including the power of keeping order and of punishing any contempt of his authority, as when sitting in court.

SEC. 3. [In case of the inability of the circuit judge to act, a district judge to be designated.]

SEC. 4. *And be it further enacted*, That it shall be the duty of the supervisors of election, appointed under this act, and they and each of them are hereby authorized and required, to attend at all times and places fixed for the registration of voters, who, being registered, would be entitled to vote for a representative or delegate in Congress, and to challenge any person offering to register; to attend at all times and places when the names of registered voters may be marked for challenge, and to cause such names registered as they shall deem proper to be so marked; to make, when required, the lists, or either of them, provided for in section thirteen of this act, and verify the same; and upon any occasion, and at any time when in attendance under the provisions of this act, to personally inspect and scrutinize such registry, and for purposes of identification to affix their or his signature to each and every page of the original list, and of each and every copy of any such list of registered voters, at such times, upon each day when any name may or shall be received, entered, or registered, and in such manner as will, in their or his judgment, detect and expose the improper or wrongful removal therefrom, or addition thereto, in any way, of any name or names.

SEC. 5. *And be it further enacted*, That it shall also be the duty of the said supervisors of election, and they, and each of them, are hereby authorized and required, to attend at all times and places for holding elections of representatives or delegates in Congress, and for counting the votes cast at said elections; to challenge any vote offered by any person whose legal qualifications the supervisors, or either of them, shall doubt; to be and remain where the ballot-boxes are kept at all times after the polls are open until each and every vote cast at said time and place shall be counted, the canvass of all votes polled be wholly completed, and the proper and requisite certificates or returns made, whether said certificates or returns be required under any law of the United States, or any State, territorial, or municipal

law, and to personally inspect and scrutinize, from time to time, and at all times, on the day of election, the manner in which the voting is done, and the way and method in which the poll-books, registry-lists, and tallies or check-books, whether the same are required by any law of the United States, or any State, territorial, or municipal law, are kept; and to the end that each candidate for the office of representative or delegate in Congress shall obtain the benefit of every vote for him cast, the said supervisors of election are, and each of them is, hereby required, in their or his respective election districts or voting precincts, to personally scrutinize, count, and canvass each and every ballot in their or his election district or voting precinct cast, whatever may be the indorsement on said ballot, or in whatever box it may have been placed or be found; to make and forward to the officer who, in accordance with the provisions of section thirteen of this act, shall have been designated as the chief supervisor of the judicial district in which the city or town wherein they or he shall serve shall be, such certificates and returns of all such ballots as said officer may direct and require, and to attach to the registry list, and any and all copies thereof, and to any certificate, statement, or return, whether the same, or any part or portion thereof, be required by any law of the United States, or of any State, territorial, or municipal law, any statement touching the truth or accuracy of the registry, or the truth or fairness of the election and canvass, which the said supervisors of election, or either of them, may desire to make or attach, or which should properly and honestly be made or attached, in order that the facts may become known, any law of any State or Territory to the contrary notwithstanding.

SEC. 6. *And be it further enacted*, That the better to enable the said supervisors of election to discharge their duties, they are, and each of them is, hereby authorized and directed, in their or his respective election districts or voting precincts, on the day or days of registration, on the day or days when registered voters may be marked to be challenged, and on the day or days of election, to take, occupy, and remain in such position

or positions, from time to time, whether before or behind the ballot-boxes, as will, in their judgment, best enable them or him to see each person offering himself for registration or offering to vote, and as will best conduce to their or his scrutinizing the manner in which the registration or voting is being conducted; and at the closing of the polls for the reception of votes, they are, and each of them is, hereby required to place themselves or himself in such position in relation to the ballot-boxes for the purpose of engaging in the work of canvassing the ballots in said boxes contained as will enable them or him to fully perform the duties in respect to such canvass provided in this act, and shall there remain until every duty in respect to such canvass, certificates, returns, and statements shall have been wholly completed, any law of any State or Territory to the contrary notwithstanding.

SEC. 7. *And be it further enacted,* That if any election district or voting precinct in any city, town, or village, for which there shall have been appointed supervisors of election for any election at which a representative or delegate in Congress shall be voted for, the said supervisors of election, or either of them, shall not be allowed to exercise and discharge, fully and freely, and without bribery, solicitation, interference, hinderance, molestation, violence, or threats thereof, on the part of or from any person or persons, each and every of the duties, obligations, and powers conferred upon them by this act and the act hereby amended, it shall be the duty of the supervisors of election, and each of them, to make prompt report, under oath, within ten days after the day of election, to the officer who, in accordance with the provisions of section thirteen of this act, shall have been designated as the chief supervisor of the judicial district in which the city or town wherein they or he served shall be, of the manner and means by which they were, or he was, not so allowed to fully and freely exercise and discharge the duties and obligations required and imposed by this act. And upon receiving any such report, it shall be the duty of the said chief supervisor, acting both in such capacity and officially as a com-

missioner of the circuit court, to forthwith examine into all the facts thereof; to subpœna and compel the attendance before him of any witnesses; administer oaths and take testimony in respect to the charges made; and prior to the assembling of the Congress for which any such representative or delegate was voted for, to have filed with the clerk of the House of Representatives of the Congress of the United States all the evidence by him taken, all information by him obtained, and all reports to him made.

SEC. 8. *And be it further enacted*, That whenever an election at which representatives or delegates in Congress are to be chosen shall be held in any city or town of twenty thousand inhabitants or upward, the marshal of the United States for the district in which said city or town is situated shall have power, and it shall be his duty, on the application, in writing, of at least two citizens residing in any such city or town, to appoint special deputy marshals, whose duty it shall be, when required as provided in this act, to aid and assist the supervisors of election in the verification of any list of persons made under the provisions of this act, who may have registered, or voted, or either; to attend in each election district or voting precinct at the times and places fixed for the registration of voters, and at all times and places when and where said registration may by law be scrutinized, and the names of registered voters be marked for challenge; and also to attend, at all times for holding such elections, the polls of the election in such district or precinct. And the marshal and his general deputies, and such special deputies, shall have power, and it shall be the duty of such special deputies, to keep the peace, and support and protect the supervisors of elections in the discharge of their duties, preserve order at such places of registration and at such polls, prevent fraudulent registration and fraudulent voting thereat, or fraudulent conduct on the part of any officer of election, and immediately, either at said place of registration or polling-place, or elsewhere, and either before or after registering or voting, to arrest and take into custody, with or without process, any

person who shall commit, or attempt or offer to commit, any of the acts or offences prohibited by this act, or the act hereby amended, or who shall commit any offence against the laws of the United States: *Provided*, That no person shall be arrested without process for any offence not committed in the presence of the marshal or his general or special deputies, or either of them, or of the supervisors of election, or either of them, and, for the purposes of arrest or the preservation of the peace, the supervisors of election, and each of them, shall, in the absence of the marshal's deputies, or if required to assist such deputies, have the same duties and powers as deputy marshals: *And provided further*, That no person shall, on the day or days of any such election, be arrested without process for any offence committed on the day or days of registration.

SEC. 9. *And be it further enacted*, That whenever any arrest is made under any provision of this act, the person so arrested shall forthwith be brought before a commissioner, judge, or court of the United States for examination of the offences alleged against him; and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States.

SEC. 10. *And be it further enacted*, That whoever, with or without any authority, power, or process, or pretended authority, power, or process, of any State, territorial, or municipal authority, shall obstruct, hinder, assault, or by bribery, solicitation, or otherwise, interfere with or prevent the supervisors of election, or either of them, or the marshal or his general or special deputies, or either of them, in the performance of any duty required of them, or either of them, or which he or they, or either of them, may be authorized to perform by any law of the United States, whether in the execution of process or otherwise, or shall by any of the means before mentioned hinder or prevent the free attendance and presence at such places of registration or at such polls of election, or full and free access and egress to and from any such place of registration or poll of election, or in going to and from any such place of registra-

tion or poll of election, or to and from any room where any such registration or election or canvass of votes, or of making any returns or certificates thereof, may be had, or shall molest, interfere with, remove, or eject from any such place of registration or poll of election, or of canvassing votes cast thereat, or of making returns or certificates thereof, any supervisor of election, the marshal, or his general or special deputies, or either of them, or shall threaten, or attempt, or offer so to do, or shall refuse or neglect to aid and assist any supervisor of election, or the marshal or his general or special deputies, or either of them, in the performance of his or their duties when required by him or them, or either of them, to give such aid and assistance, he shall be guilty of a misdemeanor, and liable to instant arrest without process, and on conviction thereof shall be punished by imprisonment not more than two years, or by fine not more than three thousand dollars, or by both such fine and imprisonment, and shall pay the costs of the prosecution. Whoever shall, during the progress of any verification of any list of the persons who may have registered or voted, and which shall be had or made under any of the provisions of this act, refuse to answer, or refrain from answering, or answering shall knowingly give false information in respect to any inquiry lawfully made, such person shall be liable to arrest and imprisonment as for a misdemeanor, and on conviction thereof shall be punished by imprisonment not to exceed thirty days, or by fine not to exceed one hundred dollars, or by both such fine and imprisonment, and shall pay the costs of the prosecution.

SEC. 11. [Penalty for refusal of supervisor or deputy marshal to act.]

SEC. 12. *And be it further enacted*, That the marshal, or his general deputies, or such special deputies as shall be thereto specially empowered by him, in writing, and under his hand and seal, whenever he or his said general deputies or his special deputies, or either or any of them, shall be forcibly resisted in executing their duties under this act, or the act hereby amended, or shall, by violence, threats, or menaces, be

prevented from executing such duties, or from arresting any person or persons who shall commit any offence for which said marshal or his general or his special deputies are authorized to make such arrest, are, and each of them is hereby, empowered to summon and call to his or their aid the bystanders or posse comitatus of his district.

SEC. 13. *And be it further enacted*, That it shall be the duty of each of the circuit courts of the United States in and for each judicial circuit, upon the recommendation in writing of the judge thereof, to name and appoint, on or before the first day of May, in the year eighteen hundred and seventy-one, and thereafter as vacancies may from any cause arise, from among the circuit court commissioners in and for each judicial district in each of said judicial circuits, one of such officers, who shall be known for the duties required of him under this act as the chief supervisor of elections of the judicial district in and for which he shall be a commissioner, and shall, so long as faithful and capable, discharge the duties in this act imposed, and whose duty it shall be to prepare and furnish all necessary books, forms, blanks, and instructions for the use and direction of the supervisors of election in the several cities and towns in their respective districts; to receive the applications of all parties for appointment to such positions; and upon the opening, as contemplated in this act, of the circuit court for the judicial circuit in which the commissioner so designated shall act, to present such applications to the judge thereof, and furnish information to said judge in respect to the appointment by the said court of such supervisors of election; to require of the supervisors of election, where necessary, lists of the persons who may register and vote, or either, in their respective election districts or voting precincts, and to cause the names of those upon any such list whose right to register or vote shall be honestly doubted to be verified by proper inquiry and examination at the respective places by them assigned as their residences; and to receive, preserve, and file all oaths of office of said supervisors of election, and of all special deputy marshals appointed under the

provisions of this act, and all certificates, returns, reports, and records of every kind and nature contemplated or made requisite under and by the provisions of this act, save where otherwise herein specially directed. And it is hereby made the duty of all United States marshals and commissioners who shall in any judicial district perform any duties under the provisions of this act, or the act hereby amended, relating to, concerning, or affecting the election of representatives of [*or*] delegates in the Congress of the United States, to, from time to time, and with all due diligence, forward to the chief supervisor in and for their judicial district all complaints, examinations, and records pertaining thereto, and all oaths of office by them administered to any supervisor of election or special deputy marshal, in order that the same may be properly preserved and filed.

SEC. 14. [Pay of supervisors and deputy marshals.]

SEC. 15. *And be it further enacted*, That the jurisdiction of the circuit court of the United States shall extend to all cases in law or equity arising under the provisions of this act or the act hereby amended; and if any person shall receive any injury to his person or property for or on account of any act by him done under any of the provisions of this act or the act hereby amended, he shall be entitled to maintain suit for damages therefor in the circuit court of the United States in the district wherein the party doing the injury may reside or shall be found.

SEC. 16. *And be it further enacted*, That in any case where suit or prosecution, civil or criminal, shall be commenced in a court of any State against any officer of the United States, or other person, for or on account of any act done under the provisions of this act, or under color thereof, or for or on account of any right, authority, or title set up or claimed by such officer or other person under any of said provisions, it shall be lawful for the defendant in such suit or prosecution, at any time before trial, upon a petition to the circuit court of the United States in and for the district in which the defendant shall have been served with process, setting forth the nature of said suit or

prosecution, and verifying the said petition by affidavit, together with a certificate signed by an attorney or counsellor at law of some court of record of the State in which such suit shall have been commenced, or of the United States, setting forth that as counsel for the petition[er] he has examined the proceedings against him, and has carefully inquired into all the matters set forth in the petition, and that he believes the same to be true, which petition, affidavit, and certificate shall be presented to the said circuit court, if in session, and, if not, to the clerk thereof at his office, and shall be filed in said office, and the cause shall thereupon be entered on the docket of said court, and shall be thereafter proceeded in as a cause originally commenced in that court; and it shall be the duty of the clerk of said court, if the suit was commenced in the court below by summons, to issue a writ of certiorari to the State court, requiring said court to send to the said circuit court the record and proceedings in said cause; or if it was commenced by capias, he shall issue a writ of habeas corpus cum causa, a duplicate of which said writ shall be delivered to the clerk of the State court, or left at his office by the marshal of the district, or his deputy, or some person duly authorized thereto; and thereupon it shall be the duty of the said State court to stay all further proceedings in such cause, and the said suit or prosecution, upon delivery of such process, or leaving the same as aforesaid, shall be deemed and taken to be moved to the said circuit court, and any further proceedings, trial, or judgment therein in the State court shall be wholly null and void; and any person, whether an attorney or officer of any State court, or otherwise, who shall thereafter take any steps, or in any manner proceed in the State court in any action so removed, shall be guilty of a misdemeanor, and liable to trial and punishment in the court to which the action shall have been removed, and upon conviction thereof shall be punished by imprisonment for not less than six months nor more than one year, or by fine not less than five hundred nor more than one thousand dollars, or by both such fine and imprisonment, and shall in addition thereto be amenable to the

said court to which said action shall have been removed as for a contempt; and if the defendant in any such suit be in actual custody on mesne process therein, it shall be the duty of the marshal, by virtue of the writ of habeas corpus cum causa, to take the body of the defendant into his custody, to be dealt with in the same cause according to the rules of law and the order of the circuit court, or of any judge thereof in vacation. And all attachments made and all bail or other security given upon such suit or prosecution shall be and continue in like force and effect as if the same suit or prosecution had proceeded to final judgment and execution in the State court. And if upon the removal of any such suit or prosecution it shall be made to appear to the said circuit court that no copy of the record and proceedings therein in the State court can be obtained, it shall be lawful for said circuit court to allow and require the plaintiff to proceed de novo, and to file a declaration of his cause of action, and the parties may thereupon proceed as in actions originally brought in said circuit court; and on failure of so proceeding judgment of non prosequitur may be rendered against the plaintiff, with costs for the defendant.

SEC. 17. [Concerning copies of records and proceedings, &c.]

SEC. 18. *And be it further enacted*, That sections five and six of the act of the Congress of the United States approved July fourteen, eighteen hundred and seventy, and entitled "An act to amend the naturalization laws, and to punish crimes against the same," be, and the same are hereby, repealed; but this repeal shall not affect any proceeding or prosecution now pending for any offence under the said sections, or either of them, or any question which may arise therein respecting the appointment of the persons in said sections, or either of them, provided for, or the powers, duties, or obligations of such persons.

SEC. 19. *And be it further enacted*, That all votes for representatives in Congress shall hereafter be by written or printed ballot, any law of any State to the contrary notwithstanding;

and all votes received or recorded contrary to the provisions of this section shall be of none effect.[1]

Approved, February 28, 1871.

No. 92. Act to enforce the Fourteenth Amendment

April 20, 1871

A bill to enforce the provisions of the fourteenth amendment was reported in the House, March 28, 1871, by Samuel Shellabarger of Ohio, from the select committee to which had been referred the President's message of March 23 on the condition of affairs in the South. The bill formed the principal subject of debate until April 6, when, with amendments, it passed the House by a vote of 118 to 91, 18 not voting. The Senate added, among others, an amendment offered by Sherman, making counties, cities, parishes, etc., liable for injuries done to any person by reason of his race or color, and on the 14th passed the bill, the vote being 45 to 19, 6 not voting. The House, by a vote of 45 to 132, 53 not voting, rejected the principal Senate amendment, and also refused, by a vote of 74 to 106, 50 not voting, to agree to a report of a conference committee retaining the objectionable section. A second conference committee reported a compromise in the terms of section 6 of the act. The report was agreed to April 19, in the House by a vote of 93 to 74, 63 not voting, and in the Senate by a vote of 36 to 13. A proclamation calling attention to the act as one of "extraordinary public importance" was issued May 3.

References. — *Text* in *U.S. Statutes at Large*, XVII, 13–15. For the proceedings see the *House and Senate Journals*, 42d Cong., 1st Sess., and the *Cong. Globe*. The "Ku Klux" report is *House Report 22* and *Senate Report 41*, 42d Cong., 2d Sess.

An Act to enforce the Provisions of the Fourteenth Amendment to the Constitution of the United States, and for other Purposes.

Be it enacted . . ., That any person who, under color of any law, statute, ordinance, regulation, custom, or usage of any

[1] Amended by act of May 3, 1872, by adding the following: "*Provided*, That this section shall not apply to any State voting otherwise whose elections for said Representatives shall occur previous to the regular meeting of its legislature next after the approval of said act."

State, shall subject, or cause to be subjected, any person within the jurisdiction of the United States to the deprivation of any rights, privileges, or immunities secured by the Constitution of the United States, shall, any such law, statute, ordinance, regulation, custom, or usage of the State to the contrary notwithstanding, be liable to the party injured in any action at law, suit in equity, or other proper proceeding for redress; such proceeding to be prosecuted in the several district or circuit courts of the United States, with and subject to the same rights of appeal, review upon error, and other remedies provided in like cases in such courts, under the provisions of the . . . [Civil Rights Act] . . ., and the other remedial laws of the United States which are in their nature applicable in such cases.

SEC. 2. That if two or more persons within any State or Territory of the United States shall conspire together to overthrow, or to put down, or to destroy by force the government of the United States, or to levy war against the United States, or to oppose by force the authority of the government of the United States, or by force, intimidation, or threat to prevent, hinder, or delay the execution of any law of the United States, or by force to seize, take, or possess any property of the United States contrary to the authority thereof, or by force, intimidation, or threat to prevent any person from accepting or holding any office or trust or place of confidence under the United States, or from discharging the duties thereof, or by force, intimidation, or threat to induce any officer of the United States to leave any State, district, or place where his duties as such officer might lawfully be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or to injure his person while engaged in the lawful discharge of the duties of his office, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duty, or by force, intimidation, or threat to deter any party or witness in any court of the United States from attending such court, or from testifying in any matter pending in such court fully, freely, and truthfully, or to injure any such

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party or witness in his person or property on account of his having so attended or testified, or by force, intimidation, or threat to influence the verdict, presentment, or indictment, of any juror or grand juror in any court of the United States, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or on account of his being or having been such juror, or shall conspire together, or go in disguise upon the public highway or upon the premises of another for the purpose, either directly or indirectly, of depriving any person or any class of persons of the equal protection of the laws, or of equal privileges or immunities under the laws, or for the purpose of preventing or hindering the constituted authorities of any State from giving or securing to all persons within such State the equal protection of the laws, or shall conspire together for the purpose of in any manner impeding, hindering, obstructing, or defeating the due course of justice in any State or Territory, with intent to deny to any citizen of the United States the due and equal protection of the laws, or to injure any person in his person or his property for lawfully enforcing the right of any person or class of persons to the equal protection of the laws, or by force, intimidation, or threat to prevent any citizen of the United States lawfully entitled to vote from giving his support or advocacy in a lawful manner towards or in favor of the election of any lawfully qualified person as an elector of President or Vice-President of the United States, or as a member of the Congress of the United States, or to injure any such citizen in his person or property on account of such support or advocacy, each and every person so offending shall be deemed guilty of a high crime, and, upon conviction thereof in any district or circuit court of the United States or district or supreme court of any Territory of the United States having jurisdiction of similar offences, shall be punished by a fine not less than five hundred nor more than five thousand dollars, or by imprisonment, with or without hard labor, as the court may determine, for a period of not less than six months nor more than six years, as the court may determine,

or by both such fine and imprisonment as the court shall determine. And if any one or more persons engaged in any such conspiracy shall do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby any person shall be injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the person so injured or deprived of such rights and privileges may have and maintain an action for the recovery of damages occasioned by such injury or deprivation of rights and privileges against any one or more of the persons engaged in such conspiracy, such action to be prosecuted in the proper district or circuit court of the United States, with and subject to the same rights of appeal, review upon error, and other remedies provided in like cases in such courts under the provisions of the . . . [Civil Rights Act] . . .

Sec. 3. That in all cases where insurrection, domestic violence, unlawful combinations, or conspiracies in any State shall so obstruct or hinder the execution of the laws thereof, and of the United States, as to deprive any portion or class of the people of such State of any of the rights, privileges, or immunities, or protection, named in the Constitution and secured by this act, and the constituted authorities of such State shall either be unable to protect, or shall, from any cause, fail in or refuse protection of the people in such rights, such facts shall be deemed a denial by such State of the equal protection of the laws to which they are entitled under the Constitution of the United States; and in all such cases, or whenever any such insurrection, violence, unlawful combination, or conspiracy shall oppose or obstruct the laws of the United States or the due execution thereof, or impede or obstruct the due course of justice under the same, it shall be lawful for the President, and it shall be his duty to take such measures, by the employment of the militia or the land and naval forces of the United States, or of either, or by other means, as he may deem necessary for the suppression of such insurrection, domestic violence, or combinations; and any person who shall be arrested under the provi-

sions of this and the preceding section shall be delivered to the marshal of the proper district, to be dealt with according to law.

SEC. 4. That whenever in any State or part of a State the unlawful combinations named in the preceding section of this act shall be organized and armed, and so numerous and powerful as to be able, by violence, to either overthrow or set at defiance the constituted authorities of such State, and of the United States within such State, or when the constituted authorities are in complicity with, or shall connive at the unlawful purposes of, such powerful and armed combinations; and whenever, by reason of either or all of the causes aforesaid, the conviction of such offenders and the preservation of the public safety shall become in such district impracticable, in every such case such combinations shall be deemed a rebellion against the government of the United States, and during the continuance of such rebellion, and within the limits of the district which shall be so under the sway thereof, such limits to be prescribed by proclamation, it shall be lawful for the President of the United States, when in his judgment the public safety shall require it, to suspend the privileges of the writ of habeas corpus, to the end that such rebellion may be overthrown: *Provided*, That all the provisions of the second section of an act entitled "An act relating to habeas corpus, and regulating judicial proceedings in certain cases," approved March third, eighteen hundred and sixty-three, which relate to the discharge of prisoners other than prisoners of war, and to the penalty for refusing to obey the order of the court, shall be in full force so far as the same are applicable to the provisions of this section: *Provided further*, That the President shall first have made proclamation, as now provided by law, commanding such insurgents to disperse: *And provided also*, That the provisions of this section shall not be in force after the end of the next regular session of Congress.

SEC. 5. That no person shall be a grand or petit juror in any court of the United States upon any inquiry, hearing, or trial of any suit, proceeding, or prosecution based upon or aris-

ing under the provisions of this act who shall, in the judgment of the court, be in complicity with any such combination or conspiracy; and every such juror shall, before entering upon any such inquiry, hearing, or trial, take and subscribe an oath in open court that he has never, directly or indirectly, counselled, advised, or voluntarily aided any such combination or conspiracy; and each and every person who shall take this oath, and shall therein swear falsely, shall be guilty of perjury, and shall be subject to the pains and penalties declared against that crime, and the first section of the act entitled "An act defining additional causes of challenge and prescribing an additional oath for grand and petit jurors in the United States courts," approved June seventeenth, eighteen hundred and sixty-two, be, and the same is hereby, repealed.

SEC. 6. That any person or persons, having knowledge that any of the wrongs conspired to be done and mentioned in the second section of this act are about to be committed, and having power to prevent or aid in preventing the same, shall neglect or refuse so to do, and such wrongful act shall be committed, such person or persons shall be liable to the person injured, or his legal representatives, for all damages caused by any such wrongful act which such first-named person or persons by reasonable diligence could have prevented; and such damages may be recovered in an action on the case in the proper circuit court of the United States, and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in such action: *Provided*, That such action shall be commenced within one year after such cause of action shall have accrued; and if the death of any person shall be caused by any such wrongful act and neglect, the legal representatives of such deceased person shall have such action therefor, and may recover not exceeding five thousand dollars damages therein, for the benefit of the widow of such deceased person, if any there be, or if there be no widow, for the benefit of the next of kin of such deceased person.

SEC. 7. That nothing herein contained shall be construed to

supersede or repeal any former act or law except so far as the same may be repugnant thereto; and any offences heretofore committed against the tenor of any former act shall be prosecuted, and any proceeding already commenced for the prosecution thereof shall be continued and completed, the same as if this act had not been passed, except so far as the provisions of this act may go to sustain and validate such proceedings.

Approved, April 20, 1871.

No. 93. Treaty of Washington

May 8, 1871

Of the unsettled diplomatic questions between Great Britain and the United States in 1871, the most important were those regarding the northwestern boundary, under the treaty of June 15, 1847; claims of American citizens for property captured or destroyed by Confederate vessels of war fitted out in England, commonly known as the "Alabama claims"; claims against the United States for losses by British subjects during the Civil War, and the fisheries. A treaty referring the Alabama claims to arbitration was rejected by the Senate in April, 1869. The existing grounds of dispute were dealt with by the treaty of Washington, concluded May 8, 1871. September 14, 1872, the Geneva tribunal awarded to the United States $15,500,000 in satisfaction of the claims presented. A court of commissioners of Alabama claims was created by act of June 23, 1874, and reëstablished by act of June 5, 1882.

References. — *Text* in *U.S. Statutes at Large*, XVII, 863–877. The documents are collected in *Papers relating to the Treaty of Washington; British Case and Evidence; British Counter Case; Claims of the United States against Great Britain*, and *Documents and Proceedings of the Halifax Commission*. The text of the award is in Wharton, *International Law Digest*, III, 631–635. On the treaty see Cushing, *Treaty of Washington;* Moore, *International Arbitrations*, chaps. 14 and 15, and Appendix K; J. C. B. Davis, in *Treaties and Conventions*, 1333–1335, 1363–1367; C. F. Adams, *Treaty of Washington* (in *Lee at Appomattox and Other Essays*); C. F. Adams, *Charles Francis Adams*, chap. 19; Blaine, *Twenty Years of Congress*, II, chap. 20. On the rejected treaty see Sumner's speech of April 13, 1869, in *Cong. Globe*, 41st Cong., 1st Sess., Appendix, 21–26. The Alabama claims

were much discussed in the forty-second Congress, second and third sessions. There are numerous statutes relating to these claims.

The United States of America and Her Britannic Majesty, being desirous to provide for an amicable settlement of all causes of difference between the two countries, have for that purpose appointed their respective Plenipotentiaries, that is to say: The President of the United States has appointed, on the part of the United States, as Commissioners in a Joint High Commission and Plenipotentiaries, Hamilton Fish, Secretary of State; Robert Cumming Schenck, Envoy Extraordinary and Minister Plenipotentiary to Great Britain; Samuel Nelson, an Associate Justice of the Supreme Court of the United States; Ebenezer Rockwood Hoar, of Massachusetts; and George Henry Williams, of Oregon; and Her Britannic Majesty, on her part, has appointed as her High Commissioners and Plenipotentiaries, the Right Honourable George Frederick Samuel, Earl de Grey and Earl of Ripon, Viscount Goderich, Baron Grantham, a Baronet, a Peer of the United Kingdom, Lord President of Her Majesty's Most Honourable Privy Council, Knight of the Most Noble Order of the Garter, etc., etc.; the Right Honourable Sir Stafford Henry Northcote, Baronet, one of Her Majesty's Most Honourable Privy Council, a Member of Parliament, a Companion of the Most Honourable Order of the Bath, etc., etc.; Sir Edward Thornton, Knight Commander of the Most Honourable Order of the Bath, Her Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States of America; Sir John Alexander Macdonald, Knight Commander of the Most Honourable Order of the Bath, a Member of Her Majesty's Privy Council for Canada, and Minister of Justice and Attorney General of Her Majesty's Dominion of Canada; and Mountague Bernard, Esquire, Chichele Professor of International Law in the University of Oxford.

And the said Plenipotentiaries, after having exchanged their full powers, which were found to be in due and proper form, have agreed to and concluded the following articles:

ARTICLE I.

Whereas differences have arisen between the Government of the United States and the Government of Her Britannic Majesty, and still exist, growing out of the acts committed by the several vessels which have given rise to the claims generically known as the "Alabama Claims:"

And whereas Her Britannic Majesty has authorized her High Commissioners and Plenipotentiaries to express, in a friendly spirit, the regret felt by Her Majesty's Government for the escape, under whatever circumstances, of the Alabama and other vessels from British ports, and for the depredations committed by those vessels:

Now, in order to remove and adjust all complaints and claims on the part of the United States, and to provide for the speedy settlement of such claims which are not admitted by Her Britannic Majesty's Government, the high contracting parties agree that all the said claims, growing out of acts committed by the aforesaid vessels, and generically known as the "Alabama claims," shall be referred to a tribunal of arbitration to be composed of five Arbitrators, to be appointed in the following manner, that is to say: One shall be named by the President of the United States; one shall be named by Her Britannic Majesty; His Majesty the King of Italy shall be requested to name one; the President of the Swiss Confederation shall be requested to name one; and His Majesty the Emperor of Brazil shall be requested to name one.

[Vacancies, how filled.]

And in the event of the refusal or omission for two months after receipt of the request from either of the high contracting parties of His Majesty the King of Italy, or the President of the Swiss Confederation, or His Majesty the Emperor of Brazil, to name an Arbitrator either to fill the original appointment or in the place of one who may have died, be absent, or incapacitated, or who may omit, decline, or from any cause cease to act as such Arbitrator, His Majesty the King of Sweden and Nor-

way shall be requested to name one or more persons, as the case may be, to act as such Arbitrator or Arbitrators.

Article II.

The Arbitrators shall meet at Geneva, in Switzerland, at the earliest convenient day after they shall have been named, and shall proceed impartially and carefully to examine and decide all questions that shall be laid before them on the part of the Governments of the United States and Her Britannic Majesty respectively. All questions considered by the tribunal, including the final award, shall be decided by a majority of all the Arbitrators.

Each of the high contracting parties shall also name one person to attend the tribunal as its agent to represent it generally in all matters connected with the arbitration.

Article III.

The written or printed case of each of the two parties, accompanied by the documents, the official correspondence, and other evidence on which each relies, shall be delivered in duplicate to each of the Arbitrators and to the Agent of the other party as soon as may be after the organization of the tribunal, but within a period not exceeding six months from the date of the exchange of the ratifications of this treaty.

Article IV.

Within four months after the delivery on both sides of the written or printed case, either party may, in like manner, deliver in duplicate to each of the said Arbitrators, and to the Agent of the other party, a counter case and additional documents, correspondence, and evidence, in reply to the case, documents, correspondence, and evidence so presented by the other party.

[Time may be extended.]

If in the case submitted to the Arbitrators either party shall have specified or alluded to any report or document in its own

exclusive possession without annexing a copy, such party shall be bound, if the other party thinks proper to apply for it, to furnish that party with a copy thereof; and either party may call upon the other, through the Arbitrators, to produce the originals or certified copies of any papers adduced as evidence, giving in each instance such reasonable notice as the Arbitrators may require.

ARTICLE V.

It shall be the duty of the Agent of each party, within two months after the expiration of the time limited for the delivery of the counter case on both sides, to deliver in duplicate to each of the said Arbitrators and to the Agent of the other party a written or printed argument showing the points and referring to the evidence upon which his Government relies; and the Arbitrators may, if they desire further elucidation with regard to any point, require a written or printed statement or argument, or oral argument by counsel upon it; but in such case the other party shall be entitled to reply either orally or in writing, as the case may be.

ARTICLE VI.

In deciding the matters submitted to the Arbitrators, they shall be governed by the following three rules, which are agreed upon by the high contracting parties as rules to be taken as applicable to the case, and by such principles of international law not inconsistent therewith as the Arbitrators shall determine to have been applicable to the case.

RULES.

A neutral Government is bound —

First, to use due diligence to prevent the fitting out, arming, or equipping, within its jurisdiction, of any vessel which it has reasonable ground to believe is intended to cruise or to carry on war against a Power with which it is at peace; and also to use like diligence to prevent the departure from its jurisdiction of any vessel intended to cruise or carry on war as above, such

vessel having been specially adapted, in whole or in part, within such jurisdiction, to warlike use.

Secondly, not to permit or suffer either belligerent to make use of its ports or waters as the base of naval operations against the other, or for the purpose of the renewal or augmentation of military supplies or arms, or the recruitment of men.

Thirdly, to exercise due diligence in its own ports and waters, and, as to all persons within its jurisdiction, to prevent any violation of the foregoing obligations and duties.

Her Britannic Majesty has commanded her High Commissioners and Plenipotentiaries to declare that Her Majesty's Government cannot assent to the foregoing rules as a statement of principles of international law which were in force at the time when the claims mentioned in Article I arose, but that Her Majesty's Government, in order to evince its desire of strengthening the friendly relations between the two countries and of making satisfactory provision for the future, agrees that in deciding the questions between the two countries arising out of those claims, the Arbitrators should assume that Her Majesty's Government had undertaken to act upon the principles set forth in these rules.

And the high contracting parties agree to observe these rules as between themselves in future, and to bring them to the knowledge of other maritime Powers, and to invite them to accede to them.

Article VII.

The decision of the tribunal shall, if possible, be made within three months from the close of the argument on both sides.

It shall be made in writing and dated, and shall be signed by the Arbitrators who may assent to it.

The said tribunal shall first determine as to each vessel separately whether Great Britain has, by any act or omission, failed to fulfil any of the duties set forth in the foregoing three rules, or recognized by the principles of international law not inconsistent with such rules, and shall certify such fact as to each of

the said vessels. In case the tribunal find that Great Britain has failed to fulfil any duty or duties as aforesaid, it may, if it think proper, proceed to award a sum in gross to be paid by Great Britain to the United States for all the claims referred to it; and in such case the gross sum so awarded shall be paid in coin by the Government of Great Britain to the Government of the United States, at Washington, within twelve months after the date of the award.

[Award to be in duplicate.]

Article VIII.

[Expenses of the arbitration.]

Article IX.

[Arbitrators to keep a record.]

Article X.

In case the tribunal finds that Great Britain has failed to fulfil any duty or duties as aforesaid, and does not award a sum in gross, the high contracting parties agree that a board of assessors shall be appointed to ascertain and determine what claims are valid, and what amount or amounts shall be paid by Great Britain to the United States on account of the liability arising from such failure, as to each vessel, according to the extent of such liability as decided by the Arbitrators.

The board of assessors shall be constituted as follows: One member thereof shall be named by the President of the United States, one member thereof shall be named by Her Britannic Majesty, and one member thereof shall be named by the Representative at Washington of His Majesty the King of Italy; and in case of a vacancy happening from any cause, it shall be filled in the same manner in which the original appointment was made.

As soon as possible after such nominations the board of assessors shall be organized in Washington, with power to hold their sittings there, or in New York, or in Boston. The members thereof shall severally subscribe a solemn declaration that they will impartially and carefully examine and decide, to the best of their judgment and according to justice and equity, all matters submitted to them, and shall forthwith proceed, under such rules and regulations as they may prescribe, to the investigation of the claims which shall be presented to them by the Government of the United States, and shall examine and decide upon them in such order and manner as they may think proper, but upon such evidence or information only as shall be furnished by or on behalf of the Governments of the United States and of Great Britain, respectively. They shall be bound to hear on each separate claim, if required, one person on behalf of each Government, as counsel or agent. A majority of the Assessors in each case shall be sufficient for a decision.

The decision of the Assessors shall be given upon each claim in writing, and shall be signed by them respectively and dated.

Every claim shall be presented to the Assessors within six months from the day of their first meeting, but they may, for good cause shown, extend the time for the presentation of any claim to a further period not exceeding three months.

The Assessors shall report to each Government, at or before the expiration of one year from the date of their first meeting, the amount of claims decided by them up to the date of such report; if further claims then remain undecided, they shall make a further report at or before the expiration of two years from the date of such first meeting; and in case any claims remain undetermined at that time, they shall make a final report within a further period of six months.

[Reports to be in duplicate.]

All sums of money which may be awarded under this article shall be payable at Washington, in coin, within twelve months after the delivery of each report.

[Clerks and expenses.]

ARTICLE XI.

The high contracting parties engage to consider the result of the proceedings of the tribunal of arbitration and of the board of Assessors, should such board be appointed, as a full, perfect, and final settlement of all the claims hereinbefore referred to; and further engage that every such claim, whether the same may or may not have been presented to the notice of, made, preferred, or laid before the tribunal or board, shall, from and after the conclusion of the proceedings of the tribunal or board, be considered and treated as finally settled, barred, and thenceforth inadmissible.

ARTICLE XII.

The high contracting parties agree that all claims on the part of corporations, companies, or private individuals, citizens of the United States, upon the Government of Her Britannic Majesty, arising out of acts committed against the persons or property of citizens of the United States during the period between the thirteenth of April, eighteen hundred and sixty-one, and the ninth of April, eighteen hundred and sixty-five, inclusive, not being claims growing out of the acts of the vessels referred to in Article I of this treaty, and all claims, with the like exception, on the part of corporations, companies, or private individuals, subjects of Her Britannic Majesty, upon the Government of the United States, arising out of acts committed against the persons or property of subjects of Her Britannic Majesty during the same period, which may have been presented to either Government for its interposition with the other, and which yet remain unsettled, as well as any other such claims which may be presented within the time specified in Article XIV of this treaty, shall be referred to three Commissioners, to be appointed in the following manner, that is to say: One Commissioner shall be named by the President of the United States, one by Her Britannic Majesty, and a third by the President of the United States and Her Britannic Majesty conjointly; and in case the third

Commissioner shall not have been so named within a period of three months from the date of the exchange of the ratifications of this treaty, then the third Commissioner shall be named by the Representative at Washington of His Majesty the King of Spain. . . .

The Commissioners so named shall meet at Washington at the earliest convenient period after they have been respectively named; and shall, before proceeding to any business, make and subscribe a solemn declaration that they will impartially and carefully examine and decide, to the best of their judgment, and according to justice and equity, all such claims as shall be laid before them on the part of the Governments of the United States and of Her Britannic Majesty, respectively; and such declaration shall be entered on the record of their proceedings.

Article XIII.

The Commissioners shall then forthwith proceed to the investigation of the claims which shall be presented to them. They shall investigate and decide such claims in such order and such manner as they may think proper, but upon such evidence or information only as shall be furnished by or on behalf of the respective Governments. They shall be bound to receive and consider all written documents or statements which may be presented to them by or on behalf of the respective Governments in support of, or in answer to, any claim, and to hear, if required, one person on each side, on behalf of each Government, as counsel or agent for such Government, on each and every separate claim. A majority of the Commissioners shall be sufficient for an award in each case. The award shall be given upon each claim in writing, and shall be signed by the Commissioners assenting to it. It shall be competent for each Government to name one person to attend the Commissioners as its agent, to present and support claims on its behalf, and to answer claims made upon it, and to represent it generally in all matters connected with the investigation and decision thereof.

The high contracting parties hereby engage to consider the

decision of the Commissioners as absolutely final and conclusive upon each claim decided upon by them, and to give full effect to such decisions without any objection, evasion, or delay whatsoever.

ARTICLE XIV.

Every claim shall be presented to the Commissioners within six months from the day of their first meeting, unless in any case where reasons for delay shall be established to the satisfaction of the Commissioners, and then, and in any such case, the period for presenting the claim may be extended by them to any time not exceeding three months longer.

The Commissioners shall be bound to examine and decide upon every claim within two years from the day of their first meeting. It shall be competent for the Commissioners to decide in each case whether any claim has or has not been duly made, preferred, and laid before them, either wholly or to any and what extent, according to the true intent and meaning of this treaty.

ARTICLE XV.

All sums of money which may be awarded by the Commissioners on account of any claim shall be paid by the one Government to the other, as the case may be, within twelve months after the date of the final award, without interest, and without any deduction save as specified in Article XVI of this treaty.

ARTICLE XVI.

[Records of commissioners, expenses, &c.]

ARTICLE XVII.

The high contracting parties engage to consider the result of the proceedings of this commission as a full, perfect, and final settlement of all such claims as are mentioned in Article XII of this treaty upon either Government; and further engage that every such claim, whether or not the same may have been presented to the notice of, made, preferred, or laid before the said

commission, shall, from and after the conclusion of the proceedings of the said commission, be considered and treated as finally settled, barred, and thenceforth inadmissible.

Article XVIII.[1]

It is agreed by the high contracting parties that, in addition to the liberty secured to the United States fishermen by the convention between the United States and Great Britain, signed at London on the 20th day of October, 1818, of taking, curing, and drying fish on certain coasts of the British North American Colonies therein defined, the inhabitants of the United States shall have, in common with the subjects of Her Britannic Majesty, the liberty, for the term of years mentioned in Article XXXIII of this treaty, to take fish of every kind, except shell-fish, on the sea-coasts and shores, and in the bays, harbours, and creeks, of the provinces of Quebec, Nova Scotia, and New Brunswick, and the colony of Prince Edward's Island, and of the several islands thereunto adjacent, without being restricted to any distance from the shore, with permission to land upon the said coasts and shores and islands, and also upon the Magdalen Islands, for the purpose of drying their nets and curing their fish; provided that, in so doing, they do not interfere with the rights of private property, or with British fishermen, in the peaceable use of any part of the said coasts in their occupancy for the same purpose.

It is understood that the above-mentioned liberty applies solely to the sea fishery, and that the salmon and shad fisheries, and all other fisheries in rivers and the mouths of rivers, are hereby reserved exclusively for British fishermen.

Article XIX.

It is agreed by the high contracting parties that British subjects shall have, in common with the citizens of the United

[1] A joint resolution of March 3, 1883, gave notice to terminate after two years Articles XVIII–XXV of the treaty.

States, the liberty, for the term of years mentioned in Article XXXIII of this treaty, to take fish of every kind, except shellfish, on the eastern sea-coasts and shores of the United States north of the thirty-ninth parallel of north latitude, and on the shores of the several islands thereunto adjacent, and in the bays, harbours, and creeks of the said sea-coasts and shores of the United States and of the said islands, without being restricted to any distance from the shore, with permission to land upon the said coasts of the United States and of the islands aforesaid, for the purpose of drying their nets and curing their fish; provided that, in so doing, they do not interfere with the rights of private property, or with the fishermen of the United States in the peaceable use of any part of the said coasts in their occupancy for the same purpose.

It is understood that the above-mentioned liberty applies solely to the sea fishery, and that salmon and shad fisheries, and all other fisheries in rivers and mouths of rivers, are hereby reserved exclusively for fishermen of the United States.

Article XX.

It is agreed that the places designated by the Commissioners appointed under the first article of the treaty between the United States and Great Britain, concluded at Washington on the 5th of June, 1854, upon the coasts of Her Britannic Majesty's dominions and the United States, as places reserved from the common right of fishing under that treaty, shall be regarded as in like manner reserved from the common right of fishing under the preceding articles. In case any question should arise between the Governments of the United States and of Her Britannic Majesty as to the common right of fishing in places not thus designated as reserved, it is agreed that a commission shall be appointed to designate such places, and shall be constituted in the same manner, and have the same powers, duties, and authority as the commission appointed under the said first article of the treaty of the 5th of June, 1854.

ARTICLE XXI.

It is agreed that, for the term of years mentioned in Article XXXIII of this treaty, fish oil and fish of all kinds, (except fish of the inland lakes, and of the rivers falling into them, and except fish preserved in oil,) being the produce of the fisheries of the United States, or of the Dominion of Canada, or of Prince Edward's Island, shall be admitted into each country, respectively, free of duty.

ARTICLE XXII.

[Commissioners to determine the compensation, if any, to be paid by the United States for privileges granted by Article XVIII of this treaty.]

ARTICLE XXIII.

The Commissioners referred to in the preceding article shall be appointed in the following manner, that is to say: One Commissioner shall be named by the President of the United States, one by Her Britannic Majesty, and a third by the President of the United States and Her Britannic Majesty conjointly; and in case the third Commissioner shall not have been so named within a period of three months from the date when this article shall take effect, then the third Commissioner shall be named by the Representative at London of His Majesty the Emperor of Austria and King of Hungary. . . . such substitution being calculated from the date of the happening of the vacancy.

The Commissioners so named shall meet in the city of Halifax, in the province of Nova Scotia, at the earliest convenient period after they have been respectively named . . .

Each of the high contracting parties shall also name one person to attend the commission as its Agent, to represent it generally in all matters connected with the commission.

ARTICLE XXIV.

The proceedings shall be conducted in such order as the Commissioners appointed under Articles XXII and XXIII of

this treaty shall determine. They shall be bound to receive such oral or written testimony as either Government may present. If either party shall offer oral testimony, the other party shall have the right of cross-examination, under such rules as the Commissioners shall prescribe.

If in the case submitted to the Commissioners either party shall have specified or alluded to any report or document in its own exclusive possession, without annexing a copy, such party shall be bound, if the other party thinks proper to apply for it, to furnish that party with a copy thereof; and either party may call upon the other, through the Commissioners, to produce the originals or certified copies of any papers adduced as evidence, giving in each instance such reasonable notice as the Commissioners may require.

The case on either side shall be closed within a period of six months from the date of the organization of the Commission, and the Commissioners shall be requested to give their award as soon as possible thereafter. The aforesaid period of six months may be extended for three months in case of a vacancy occurring among the Commissioners under the circumstances contemplated in Article XXIII of this treaty.

Article XXV.

[Records, expenses, &c.]

Article XXVI.

The navigation of the river St. Lawrence, ascending and descending, from the forty-fifth parallel of north latitude, where it ceases to form the boundary between the two countries, from, to, and into the sea, shall forever remain free and open for the purposes of commerce to the citizens of the United States, subject to any laws and regulations of Great Britain, or of the Dominion of Canada, not inconsistent with such privilege of free navigation.

The navigation of the rivers Yukon, Porcupine, and Stikine,

ascending and descending, from, to, and into the sea, shall forever remain free and open for the purposes of commerce to the subjects of Her Britannic Majesty and to the citizens of the United States, subject to any laws and regulations of either country within its own territory, not inconsistent with such privilege of free navigation.

Article XXVII.

The Government of Her Britannic Majesty engages to urge upon the Government of the Dominion of Canada to secure to the citizens of the United States the use of the Welland, St. Lawrence, and other canals in the Dominion on terms of equality with the inhabitants of the Dominion; and the Government of the United States engages that the subjects of Her Britannic Majesty shall enjoy the use of the St. Clair Flats canal on terms of equality with the inhabitants of the United States, and further engages to urge upon the State Governments to secure to the subjects of Her Britannic Majesty the use of the several State canals connected with the navigation of the lakes or rivers traversed by or contiguous to the boundary line between the possessions of the high contracting parties, on terms of equality with the inhabitants of the United States.

Article XXVIII.

The navigation of Lake Michigan shall also, for the term of years mentioned in Article XXXIII of this treaty, be free and open for the purposes of commerce to the subjects of Her Britannic Majesty, subject to any laws and regulations of the United States or of the States bordering thereon not inconsistent with such privilege of free navigation.

Article XXIX.

It is agreed that, for the term of years mentioned in Article XXXIII of this treaty, goods, wares, or merchandise arriving at the ports of New York, Boston, and Portland, and any other

ports in the United States which have been or may, from time to time, be specially designated by the President of the United States, and destined for Her Britannic Majesty's possessions in North America, may be entered at the proper custom-house and conveyed in transit, without the payment of duties, through the territory of the United States, under such rules, regulations, and conditions for the protection of the revenue as the Government of the United States may from time to time prescribe; and under like rules, regulations, and conditions, goods, wares, or merchandise may be conveyed in transit, without the payment of duties, from such possessions through the territory of the United States for export from the said ports of the United States.

It is further agreed that, for the like period, goods, wares, or merchandise arriving at any of the ports of Her Britannic Majesty's possessions in North America and destined for the United States may be entered at the proper custom-house and conveyed in transit, without the payment of duties, through the said possessions, under such rules and regulations, and conditions for the protection of the revenue, as the Governments of the said possessions may from time to time prescribe; and under like rules, regulations, and conditions goods, wares, or merchandise may be conveyed in transit, without payment of duties, from the United States through the said possessions to other places in the United States, or for export from ports in the said possessions.

ARTICLE XXX.

It is agreed that, for the term of years mentioned in Article XXXIII of this treaty, subjects of Her Britannic Majesty may carry in British vessels, without payment of duty, goods, wares, or merchandise from one port or place within the territory of the United States upon the St. Lawrence, the great lakes, and the rivers connecting the same, to another port or place within the territory of the United States as aforesaid: Provided, That a portion of such transportation is made through the Dominion

of Canada by land carriage and in bond, under such rules and regulations as may be agreed upon between the Government of Her Britannic Majesty and the Government of the United States.

Citizens of the United States may for the like period carry in United States vessels, without payment of duty, goods, wares, or merchandise from one port or place within the possessions of Her Britannic Majesty in North America, to another port or place within the said possessions: Provided, That a portion of such transportation is made through the territory of the United States by land carriage and in bond, under such rules and regulations as may be agreed upon between the Government of the United States and the Government of Her Britannic Majesty.

The Government of the United States further engages not to impose any export duties on goods, wares, or merchandise carried under this article through the territory of the United States; and Her Majesty's Government engages to urge the Parliament of the Dominion of Canada and the Legislatures of the other colonies not to impose any export duties on goods, wares, or merchandise carried under this article; and the Government of the United States may, in case such export duties are imposed by the Dominion of Canada, suspend, during the period that such duties are imposed, the right of carrying granted under this article in favor of the subjects of Her Britannic Majesty.

The Government of the United States may suspend the right of carrying granted in favor of the subjects of Her Britannic Majesty under this article in case the Dominion of Canada should at any time deprive the citizens of the United States of the use of the canals of the said Dominion on terms of equality with the inhabitants of the Dominion, as provided in Article XXVII.

Article XXXI.

The Government of Her Britannic Majesty further engages to urge upon the Parliament of the Dominion of Canada and the Legislature of New Brunswick, that no export duty, or other

duty, shall be levied on lumber or timber of any kind cut on that portion of the American territory in the State of Maine watered by the river St. John and its tributaries, and floated down that river to the sea, when the same is shipped to the United States from the province of New Brunswick. And, in case any such export or other duty continues to be levied after the expiration of one year from the date of the exchange of the ratifications of this treaty, it is agreed that the Government of the United States may suspend the right of carrying hereinbefore granted under Article XXX of this treaty for such period as such export or other duty may be levied.

ARTICLE XXXII.

It is further agreed that the provisions and stipulations of Articles XVIII to XXV of this treaty, inclusive, shall extend to the colony of Newfoundland, so far as they are applicable. But if the Imperial Parliament, the Legislature of Newfoundland, or the Congress of the United States, shall not embrace the colony of Newfoundland in their laws enacted for carrying the foregoing articles into effect, then this article shall be of no effect; but the omission to make provision by law to give it effect, by either of the legislative bodies aforesaid, shall not in any way impair any other articles of this treaty.

ARTICLE XXXIII.

The foregoing Articles XVIII to XXV, inclusive, and Article XXX of this treaty shall take effect as soon as the laws required to carry them into operation shall have been passed by the Imperial Parliament of Great Britain, by the Parliament of Canada, and by the Legislature of Prince Edward's Island on the one hand, and by the Congress of the United States on the other. Such assent having been given, the said articles shall remain in force for the period of ten years from the date at which they may come into operation; and further until the expiration of two years after either of the high contracting parties shall have given notice to the other of its wish to terminate the same; each of the high con-

tracting parties being at liberty to give such notice to the other at the end of the said period of ten years or at any time afterward.

Article XXXIV.

Whereas it was stipulated by Article I of the treaty concluded at Washington on the 15th of June, 1846, between the United States and Her Britannic Majesty, that the line of boundary between the territories of the United States and those of Her Britannic Majesty, from the point of the forty-ninth parallel of north latitude up to which it had already been ascertained, should be continued westward along the said parallel of north latitude "to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly, through the middle of the said channel and of Fuca Straits, to the Pacific Ocean;" and whereas the Commissioners appointed by the two high contracting parties to determine that portion of the boundary which runs southerly through the middle of the channel aforesaid, were unable to agree upon the same; and whereas the Government of Her Britannic Majesty claims that such boundary line should, under the terms of the treaty above recited, be run through the Rosario Straits, and the Government of the United States claims that it should be run through the Canal de Haro, it is agreed that the respective claims of the Government of the United States and of the Government of Her Britannic Majesty shall be submitted to the arbitration and award of His Majesty the Emperor of Germany, who, having regard to the above-mentioned article of the said treaty, shall decide thereupon, finally and without appeal, which of those claims is most in accordance with the true interpretation of the treaty of June 15, 1846.

Article XXXV.

The award of His Majesty the Emperor of Germany shall be considered as absolutely final and conclusive; and full effect shall be given to such award without any objection, evasion, or delay whatsoever. Such decision shall be given in writing and dated; it shall be in whatsoever form His Majesty may choose to adopt; it

shall be delivered to the Representatives or other public Agents of the United States and of Great Britain, respectively, who may be actually at Berlin, and shall be considered as operative from the day of the date of the delivery thereof.

ARTICLE XXXVI.

The written or printed case of each of the two parties, accompanied by the evidence offered in support of the same, shall be laid before His Majesty the Emperor of Germany within six months from the date of the exchange of the ratifications of this treaty, and a copy of such case and evidence shall be communicated by each party to the other, through their respective Representatives at Berlin.

The high contracting parties may include in the evidence to be considered by the Arbitrator such documents, official correspondence, and other official or public statements bearing on the subject of the reference as they may consider necessary to the support of their respective cases.

After the written or printed case shall have been communicated by each party to the other, each party shall have the power of drawing up and laying before the Arbitrator a second and definitive statement, if it thinks fit to do so, in reply to the case of the other party so communicated, which definitive statement shall be so laid before the Arbitrator, and also be mutually communicated in the same manner as aforesaid, by each party to the other, within six months from the date of laying the first statement of the case before the Arbitrator.

ARTICLE XXXVII.

If, in the case submitted to the Arbitrator, either party shall specify or allude to any report or document in its own exclusive possession without annexing a copy, such party shall be bound, if the other party thinks proper to apply for it, to furnish that party with a copy thereof, and either party may call upon the other, through the Arbitrator, to produce the originals or certified copies of any papers adduced as evidence, giving in each instance

such reasonable notice as the Arbitrator may require. And if the Arbitrator should desire further elucidation or evidence with regard to any point contained in the statements laid before him, he shall be at liberty to require it from either party, and he shall be at liberty to hear one Counsel or Agent for each party, in relation to any matter, and at such time, and in such manner, as he may think fit.

ARTICLE XXXVIII.

The Representatives or other public Agents of the United States and of Great Britain at Berlin, respectively, shall be considered as the Agents of their respective Governments to conduct their cases before the Arbitrator, who shall be requested to address all his communications and give all his notices to such Representatives or other public Agents, who shall represent their respective Governments generally, in all matters connected with the arbitration.

ARTICLE XXXIX.

It shall be competent to the Arbitrator to proceed in the said arbitration, and all matters relating thereto, as and when he shall see fit, either in person, or by a person or persons named by him for that purpose, either in the presence or absence of either or both Agents, and either orally, or by written discussion or otherwise.

ARTICLE XL.

[Clerk, expenses, &c.]

ARTICLE XLI.

The Arbitrator shall be requested to deliver, together with his award, an account of all the costs and expenses which he may have been put to, in relation to this matter, which shall forthwith be repaid by the two Governments in equal moieties.

ARTICLE XLII.

The Arbitrator shall be requested to give his award in writing as early as convenient after the whole case on each side shall have

been laid before him, and to deliver one copy thereof to each of the said Agents.

ARTICLE XLIII.

The present treaty shall be duly ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by Her Britannic Majesty; and the ratifications shall be exchanged either at Washington or at London within six months from the date hereof, or earlier if possible.

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No. 94. Act removing Political Disabilities

May 22, 1872

MAY 13, 1872, the House having before it a number of bills for the removal of the political disabilities of the persons named therein, the rules were suspended, and a general bill for the removal of disabilities imposed by the fourteenth amendment was introduced by Butler of Massachusetts, from the Committee on the Judiciary, and passed. The Senate passed the bill on the 21st by a vote of 38 to 2. The debate was without special interest. The disabilities not provided for by this act were removed by an act of June 6, 1898.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XVII, 142. For the proceedings see the *House and Senate Journals*, 42d Cong., 1st Sess., and the *Cong. Record.*

An Act to remove political Disabilities imposed by the fourteenth Article of the Amendments of the Constitution of the United States.

Be it enacted . . ., (two-thirds of each house concurring therein), That all political disabilities imposed by the third section of the fourteenth article of amendments of the Constitution of the United States are hereby removed from all persons whomsoever, except Senators and Representatives of the thirty-sixth and thirty-seventh Congresses, officers in the judicial, military, and naval service of the United States, heads of departments, and foreign ministers of the United States.

APPROVED, May 22, 1872.

No. 95. Supplementary Federal Election Law

June 10, 1872

A BILL making appropriations for sundry civil expenses was reported in the House, May 9, 1872, by Garfield of Ohio, and passed on the 23d. June 7, in the Senate, William P. Kellogg of Louisiana submitted an amendment altering and extending the act of February 28, 1871 [No. 91], relative to the right of citizens to vote. The proposition gave rise to heated discussion, the amendment being objected to not only as a "rider," but also as an attempt to engraft upon the bill an election bill then before the House. The bill with amendments passed the Senate, after an all-night session, by a vote of 32 to 10, 32 not voting. The report of a conference committee was accepted by the House on the 8th, by a vote of 102 to 79, 59 not voting, and by the Senate on the 10th by a vote of 39 to 17. All laws relating to supervisors of elections, special deputy marshals, etc., were repealed by an act of February 8, 1894.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XVII, 348, 349. For the proceedings see the *House and Senate Journals*, 42d Cong., 2d Sess., and the *Cong. Record*. See also *House Reports 19, 120, and 135*, 45th Cong., 3d Sess., and *Senate Exec. Doc. 8*, 46th Cong., 1st Sess.

An Act making Appropriations for sundry civil Expenses of the Government for the fiscal Year ending June thirtieth, eighteen hundred and seventy-three, and for other Purposes.

* * * * * * *

JUDICIARY.

For defraying the expenses of the courts of the United States, including the District of Columbia; for jurors and witnesses, and expenses of suits in which the United States are concerned, of prosecutions for offences committed against the United States; for the safe-keeping of prisoners; and for the expenses which may be incurred in the enforcement of the act, relative to the right of citizens to vote, of February twenty-eighth, eighteen hundred and seventy-one, or any acts amendatory thereof or supplementary thereto, three million two hundred thousand dollars; of which sum two hundred thousand dollars shall be available for the expenses incurred during the present fiscal year, the said act

being hereby supplemented and amended so as to further provide as follows: "That whenever, in any county or parish, in any congressional district, there shall be ten citizens thereof of good standing who, prior to any registration of voters for an election for representative in Congress, or prior to any election at which a representative in Congress is to be voted for, shall make known, in writing, to the judge of the circuit court of the United States for the district wherein such county or parish is situate, their desire to have said registration or election both guarded and scrutinized, it shall be the duty of the said judge of the circuit court, within not less than ten days prior to said registration or election, as the case may be, to open the said court at the most convenient point in said district; and the said court, when so opened by said judge, shall proceed to appoint and commission, from day to day, and from time to time, and under the hand of the said judge, and under the seal of said court, for such election district or voting precinct in said congressional district, as shall, in the manner herein prescribed, have been applied for, and to revoke, change, or renew said appointment from time to time, two citizens, residents of said election district or voting precinct in said county or parish, who shall be of different political parties, and able to read and write the English language, and who shall be known and designated as supervisors of election; and the said court, when opened by the said judge as required herein, shall, therefrom and thereafter and up to and including the day following the day of the election, be always open for the transaction of business under this act; and the powers and jurisdiction hereby granted and conferred shall be exercised, as well in vacation as in term time; and a judge, sitting at chambers, shall have the same powers and jurisdiction, including the power of keeping order and of punishing any contempt of his authority, as when sitting in the court: *Provided*, That no compensation shall be allowed to the supervisors herein authorized to be appointed, except those appointed in cities or towns of twenty thousand or more inhabitants. And no person shall be appointed under this act as supervisor of election who is not at the time of his appointment a qualified voter of the county,

parish, election district, or voting precinct for which he is appointed. And no person shall be appointed deputy-marshal under the act of which this is amendatory, who is not a qualified voter at the time of his appointment, in the county, parish, district, or precinct in which his duties are to be performed. And section thirteen of the act of which this is an amendment shall be construed to authorize and require the circuit courts of the United States in said section mentioned to name and appoint, as soon as may be after the passage of this act, the commissioners provided for in said section, in all cases in which such appointments have not already been made in conformity therewith. And the third section of the act to which this is an amendment shall be taken and construed to authorize each of the judges of the circuit courts of the United States to designate one or more of the judges of the district courts within his circuit to discharge the duties arising under this act or the act to which this is an amendment. And the words 'any person' in section four of the act of May thirty-first, eighteen hundred and seventy, shall be held to include any officer or other person having powers or duties of an official character under this act or the act to which this is an amendment: *Provided,* That nothing in this section shall be so construed as to authorize the appointment of any marshals or deputy-marshals in addition to those heretofore authorized by law: *And provided further,* That the supervisors herein provided for shall have no power or authority to make arrests or to perform other duties than to be in the immediate presence of the officers holding the election, and to witness all their proceedings, including the counting of the votes and the making of a return thereof. And so much of said sum herein appropriated as may be necessary for said supplemental and amendatory provisions is hereby appropriated from and after the passage of this act."

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LEWIS-CLARK NORMAL SCHOOL

No. 96. Coinage Act

February 12, 1873

THE need of a revision of the laws relating to the mints, assay offices, and coinage was suggested as early as 1866, and April 25, 1870, a report on the subject, prepared by John Jay Knox, comptroller of the currency, was submitted to Congress, together with the draft of a bill. A bill in accordance with this report was reported in the Senate, December 19, 1870, by Sherman, and passed that body January 10, 1871. A substitute reported in the House February 25 was recommitted. A second bill to the same effect was introduced in the House, March 3, by William D. Kelley of Pennsylvania, and referred to the Committee on Coinage, Weights, and Measures. The bill was not reported until January 9, 1872, and the next day was recommitted. A bill with similar title was reported, February 9, by Hooper of Massachusetts, and also recommitted. The latter bill was taken up April 9, and May 27 a substitute offered by Hooper was passed under suspension of the rules. The Senate referred the bill to the Committee on Finance, and the session closed without further action. December 16 the bill was reported in the Senate, further amendments being reported January 7, 1873. The bill was taken up on the 17th, and passed with amendments the same day. The final form of the bill was the work of a conference committee. The omission of the standard silver dollar of 412½ grains from the list of coins led later to the charge that the act aimed to demonetize silver, and caused the advocates of silver to refer to the act as the "crime of 1873." Only those sections of the act giving the list of coins are inserted here.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XVII, 424–436, *passim*. For the proceedings see the *House and Senate Journals*, 41st Cong., 3d Sess., and 42d Cong., and the *Cong. Record;* see also the *Record*, 53d Cong., 1st Sess., pp. 1219–1224. Knox's report is *Senate Misc. Doc. 132*, 41st Cong., 2d Sess.; the correspondence connected with it is in *House Exec. Doc. 307*. On the act see Dewey, *Financial History*, 403–405, and references there given; Sherman, *Recollections*, II, 1063–1065; White, *Money and Banking*, 213–223.

An Act revising and amending the Laws relative to the Mints, Assay-offices, and Coinage of the United States.

* * * * * * *

SEC. 14. That the gold coins of the United States shall be a one-dollar piece, which, at the standard weight of twenty-five and eight-tenths grains, shall be the unit of value; a quarter-eagle, or two-and-a-half dollar piece; a three-dollar piece; a half-eagle,

or five-dollar piece; an eagle, or ten-dollar piece; and a double eagle, or twenty-dollar piece. And the standard weight of the gold dollar shall be twenty-five and eight-tenths grains; of the quarter-eagle, or two-and-a-half dollar piece, sixty-four and a half grains; of the three-dollar piece, seventy-seven and four-tenths grains; of the half-eagle, or five-dollar piece, one hundred and twenty-nine grains; of the eagle, or ten-dollar piece, two hundred and fifty-eight grains; of the double-eagle, or twenty-dollar piece, five hundred and sixteen grains; which coins shall be a legal tender in all payments at their nominal value when not below the standard weight and limit of tolerance provided in this act for the single piece, and, when reduced in weight, below said standard and tolerance, shall be a legal tender at valuation in proportion to their actual weight; and any gold coin of the United States, if reduced in weight by natural abrasion not more than one-half of one per centum below the standard weight prescribed by law, after a circulation of twenty years, as shown by its date of coinage, and at a ratable proportion for any period less than twenty years, shall be received at their nominal value by the United States treasury and its offices, under such regulations as the Secretary of the Treasury may prescribe for the protection of the government against fraudulent abrasion or other practices; and any gold coins in the treasury of the United States reduced in weight below this limit of abrasion shall be recoined.

Sec. 15. That the silver coins of the United States shall be a trade-dollar, a half-dollar, or fifty-cent piece, a quarter-dollar, or twenty-five-cent piece, a dime, or ten-cent piece; and the weight of the trade-dollar shall be four hundred and twenty grains troy; the weight of the half-dollar shall be twelve grams (grammes) and one-half of a gram, (gramme;) the quarter-dollar and the dime shall be respectively, one-half and one-fifth of the weight of said half-dollar; and said coins shall be a legal tender at their nominal value for any amount not exceeding five dollars in any one payment.

Sec. 16. That the minor coins of the United States shall be a five-cent piece, a three-cent piece, and a one-cent piece, and the alloy for the five and three cent pieces shall be of copper and

nickel, to be composed of three-fourths copper and one-fourth nickel, and the alloy of the one-cent piece shall be ninety-five per centum of copper and five per centum of tin and zinc, in such proportions as shall be determined by the director of the mint. The weight of the piece of five cents shall be seventy-seven and sixteen-hundredths grains, troy; of the three-cent piece, thirty grains; and of the one-cent piece, forty-eight grains; which coins shall be a legal tender, at their nominal value, for any amount not exceeding twenty-five cents in any one payment.

SEC. 17. That no coins, either of gold, silver, or minor coinage, shall hereafter be issued from the mint other than those of the denominations, standards, and weights herein set forth.

* * * * * * *

No. 97. Act regarding United States Notes and National Bank Currency

June 20, 1874

A BILL "to amend the several acts providing a national currency and to establish free banking" was reported in the House, January 29, 1874, by Maynard of Tennessee, from the Committee on Banking and Currency, as a substitute for various bills previously referred to the committee. April 10 a substitute amendment was agreed to by a vote of 149 to 95, 46 not voting, and the next day the amended bill passed the House, the final vote being 129 to 116, 45 not voting. A substitute was reported in the Senate May 6, and was agreed to with various amendments on the 14th, the vote on the passage of the bill being 25 to 19. The House, by a vote of 70 to 164, disagreed to the Senate amendments. June 13 the report of a conference committee proposing the House substitute was agreed to by the Senate by a vote of 32 to 23, but rejected by the House by a vote of 108 to 146, 35 not voting. A second report was accepted June 20, in the House by a vote of 221 to 40, 28 not voting, in the Senate by a vote of 43 to 19.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XVIII, 123–125. For the proceedings see the *House and Senate Journals*, 43d Cong., 1st Sess., and the *Cong. Record*. An abstract of the original House bill is in the *Record* for January 29; the text of the Senate substitute, *ibid.*, May 6. For Sherman's opinion of the act see his *Recollections*, I, 508.

An act fixing the amount of United States notes, providing for a redistribution of the national-bank currency, and for other purposes.

Be it enacted . . ., That the act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June third, eighteen hundred and sixty four, shall hereafter be known as "the national-bank act."

SEC. 2. That section thirty-one of "the national-bank act" be so amended that the several associations therein provided for shall not hereafter be required to keep on hand any amount of money whatever, by reason of the amount of their respective circulations; but the moneys required by said section to be kept at all times on hand shall be determined by the amount of deposits in all respects, as provided for in the said section.

SEC. 3. That every association organized, or to be organized, under the provisions of the said act, and of the several acts amendatory thereof, shall at all times keep and have on deposit in the treasury of the United States, in lawful money of the United States, a sum equal to five per centum of its circulation, to be held and used for the redemption of such circulation; which sum shall be counted as a part of its lawful reserve, as provided in section two of this act; and when the circulating notes of any such associations, assorted or unassorted, shall be presented for redemption, in sums of one thousand dollars, or any multiple thereof, to the Treasurer of the United States, the same shall be redeemed in United States notes. All notes so redeemed shall be charged by the Treasurer of the United States to the respective associations issuing the same, and he shall notify them severally, on the first day of each month, or oftener, at his discretion, of the amount of such redemptions; and whenever such redemptions for any association shall amount to the sum of five hundred dollars, such association so notified shall forthwith deposit with the Treasurer of the United States a sum in United States notes equal to the amount of its circulating-notes so redeemed. And all notes of national banks worn, defaced, mutilated, or otherwise unfit for circulation shall, when

received by any assistant treasurer, or at any designated depository of the United States, be forwarded to the Treasurer of the United States for redemption as provided herein. And when such redemptions have been so re-imbursed, the circulating-notes so redeemed shall be forwarded to the respective associations by which they were issued; but if any of such notes are worn, mutilated, defaced, or rendered otherwise unfit for use, they shall be forwarded to the Comptroller of the Currency and destroyed and replaced as now provided by law: *Provided*, That each of said associations shall re-imburse to the Treasury the charges for transportation, and the costs for assorting such notes; and the associations hereafter organized shall also severally re-imburse to the Treasury the cost of engraving such plates as shall be ordered by each association respectively; and the amount assessed upon each association shall be in proportion to the circulation redeemed, and be charged to the fund on deposit with the Treasurer: *And provided further*, That so much of section thirty-two of said national-bank act requiring or permitting the redemption of its circulating notes elsewhere than at its own counter, except as provided for in this section, is hereby repealed.

SEC. 4. That any association organized under this act, or any of the acts of which this is an amendment, desiring to withdraw its circulating notes, in whole or in part, may, upon the deposit of lawful money with the Treasurer of the United States in sums of not less than nine thousand dollars, take up the bonds which said association has on deposit with the Treasurer for the security of such circulating-notes; which bonds shall be assigned to the bank in the manner specified in the nineteenth section of the national-bank act; and the outstanding notes of said association, to an amount equal to the legal-tender notes deposited, shall be redeemed at the Treasury of the United States, and destroyed as now provided by law: *Provided*, That the amount of the bonds on deposit for circulation shall not be reduced below fifty thousand dollars.

SEC. 5. [Charter numbers of associations to be printed on national-bank notes.]

SEC. 6. That the amount of United States notes outstanding, and to be used as a part of the circulating-medium, shall not exceed the sum of three hundred and eighty-two million dollars, which said sum shall appear in each monthly statement of the public debt, and no part thereof shall be held or used as a reserve.

SEC. 7. That so much of the act entitled "An act to provide for the redemption of the three per centum temporary loan certificates, and for an increase of national bank notes" as provides that no circulation shall be withdrawn under the provisions of section six of said act, until after the fifty-four millions granted in section one of said act shall have been taken up, is hereby repealed; and it shall be the duty of the Comptroller of the Currency, under the direction of the Secretary of the Treasury, to proceed forthwith, and he is hereby authorized and required, from time to time, as applications shall be duly made therefor, and until the full amount of fifty-five million dollars shall be withdrawn, to make requisitions upon each of the national banks described in said section, and in the manner therein provided, organized in States having an excess of circulation, to withdraw and return so much of their circulation as by said act may be apportioned to be withdrawn from them, or, in lieu thereof, to deposit in the Treasury of the United States lawful money sufficient to redeem such circulation, and upon the return of the circulation required, or the deposit of lawful money, as herein provided, a proportionate amount of the bonds held to secure the circulation of such association as shall make such return or deposit shall be surrendered to it.

SEC. 8. That upon the failure of the national banks upon which requisition for circulation shall be made, or of any of them, to return the amount required, or to deposit in the Treasury lawful money to redeem the circulation required, within thirty days, the Comptroller of the Currency shall at once sell, as provided in section forty-nine of the national-currency act approved June third, eighteen hundred and sixty-four, bonds held to secure the redemption of the circulation of the association or associations which shall so fail, to an amount sufficient to redeem the circu-

lation required of such association or associations, and with the proceeds, which shall be deposited in the Treasury of the United States, so much of the circulation of such association or associations shall be redeemed as will equal the amount required and not returned and if there be any excess of proceeds over the amount required for such redemption, it shall be returned to the association or associations whose bonds shall have been sold. And it shall be the duty of the Treasurer, assistant treasurers, designated depositaries, and national bank depositaries of the United States, who shall be kept informed by the Comptroller of the Currency of such associations as shall fail to return circulation as required, to assort and return to the Treasury for redemption the notes of such associations as shall come into their hands until the amount required shall be redeemed, and in like manner to assort and return to the Treasury, for redemption, the notes of such national banks as have failed, or gone into voluntary liquidation for the purpose of winding up their affairs, and of such as shall hereafter so fail or go into liquidation.

SEC. 9. That from and after the passage of this act it shall be lawful for the Comptroller of the Currency, and he is hereby required, to issue circulating-notes without delay, as applications therefor are made, not to exceed the sum of fifty-five million dollars, to associations organized, or to be organized, in those States and Territories having less than their proportion of circulation, under an apportionment made on the basis of population and of wealth, as shown by the returns of the census of eighteen hundred and seventy; and every association hereafter organized shall be subject to, and be governed by, the rules, restrictions, and limitations, and possess the rights, privileges, and franchises, now or hereafter to be prescribed by law as to national banking associations, with the same power to amend, alter, and repeal provided by "the national bank act:" *Provided*, That the whole amount of circulation withdrawn and redeemed from banks transacting business shall not exceed fifty-five million dollars, and that such circulation shall be withdrawn and redeemed as it shall be necessary to supply the circulation previously issued to the banks in

those States having less than their apportionment : *And provided further*, That not more than thirty million dollars shall be withdrawn and redeemed as herein contemplated during the fiscal year ending June thirtieth, eighteen hundred and seventy-five.

Approved, June 20, 1874.

No. 98. Resumption of Specie Payments

January 14, 1875

One result of the financial crisis which began in September, 1873, was the introduction, in the next session of Congress, of an extraordinary number of bills relating to banks and the currency. A bill providing for the redemption and reissue of United States notes, with gradual payment of the notes in coin or bonds after January 1, 1876, was reported in the Senate by Sherman, March 23, 1874, and passed that body April 6 and the House April 14, but was vetoed by President Grant. A bill to provide for the resumption of specie payments, prepared in the first instance by a committee of the Republican members of Congress, and submitted by them to the Senate Committee on Finance, was reported by Sherman December 21, and passed the Senate the next day by a vote of 32 to 14. The bill was taken up in the House January 7, 1875, and passed the same day, the vote being 136 to 98, 54 not voting. President Grant communicated his approval in a special message to the Senate, in which further legislation to make the law effective was suggested.

References. — *Text* in *U.S. Statutes at Large*, XVIII, 296. For the proceedings see the *House and Senate Journals*, 43d Cong., 2d Sess., and the *Cong. Record*. On resumption see Sherman, *Recollections*, I, chaps. 24–26 ; II, chaps. 30 and 36 ; annual reports of the Secretary of the Treasury (Sherman) for 1877–1879 ; Dewey, *Financial History*, chap. 15 ; *House Misc. Doc. 48*, 45th Cong., 2d Sess.

An act to provide for the resumption of specie payments.

Be it enacted . . ., That the Secretary of the Treasury is hereby authorized and required, as rapidly as practicable, to cause to be coined at the mints of the United States, silver coins of the denominations of ten, twenty-five, and fifty cents, of standard value, and to issue them in redemption of an equal number

and amount of fractional currency of similar denominations, or, at his discretion, he may issue such silver coins through the mints, the subtreasuries, public depositaries, and post-offices of the United States; and, upon such issue, he is hereby authorized and required to redeem an equal amount of such fractional currency, until the whole amount of such fractional currency outstanding shall be redeemed.

SEC. 2. That so much of section three thousand five hundred and twenty-four of the Revised Statutes of the United States as provides for a charge of one-fifth of one per centum for converting standard gold bullion into coin is hereby repealed, and hereafter no charge shall be made for that service.

SEC. 3. That section five thousand one hundred and seventy-seven of the Revised Statutes of the United States, limiting the aggregate amount of circulating-notes of national banking-associations, be, and is hereby, repealed; and each existing banking-association may increase its circulating-notes in accordance with existing law without respect to said aggregate limit; and new banking-associations may be organized in accordance with existing law without respect to said aggregate limit; and the provisions of law for the withdrawal and redistribution of national-bank currency among the several States and Territories are hereby repealed. And whenever, and so often, as circulating-notes shall be issued to any such banking-association, so increasing its capital or circulating-notes, or so newly organized as aforesaid, it shall be the duty of the Secretary of the Treasury to redeem the legal-tender United States notes in excess only of three hundred million of dollars, to the amount of eighty per centum of the sum of national-bank notes so issued to any such banking-association as aforesaid, and to continue such redemption as such circulating-notes are issued until there shall be outstanding the sum of three hundred million dollars of such legal-tender United States notes, and no more. And on and after the first day of January, anno Domini eighteen hundred and seventy-nine, the Secretary of the Treasury shall redeem, in coin, the United States legal-tender notes then outstanding on their presen-

tation for redemption, at the office of the assistant treasurer of the United States in the city of New York,[1] in sums of not less than fifty dollars. And to enable the Secretary of the Treasury to prepare and provide for the redemption in this act authorized or required, he is authorized to use any surplus revenues, from time to time, in the Treasury not otherwise appropriated, and to issue, sell, and dispose of, at not less than par, in coin, either of the descriptions of bonds of the United States described in the act of Congress approved July fourteenth, eighteen hundred and seventy, entitled, "An act to authorize the refunding of the national debt," with like qualities, privileges, and exemptions, to the extent necessary to carry this act into full effect, and to use the proceeds thereof for the purposes aforesaid. And all provisions of law inconsistent with the provisions of this act are hereby repealed.

Approved, January 14, 1875.

No. 99. Civil Rights Act

March 1, 1875

An amendment offered by Sumner to the amnesty act of May 22, 1872 [No. 94], forbidding discrimination against negroes in certain public places and elsewhere, was lost by a vote of 29 to 30. A bill of similar purport was called up in the Senate December 11, 1872, and passed over. Another bill passed the Senate April 30, 1873, but failed in the House. A third bill was introduced in the House, December 18, by Butler of Massachusetts, from the Committee on the Judiciary, and January 7, 1874, was recommitted. A fourth civil rights bill passed the Senate May 22, but was not acted on by the House. A substitute for Butler's bill was reported December 16, and February 4, 1875, passed the House with amendments, the vote being 162 to 100, 27 not voting. The bill was reported in the Senate on the 15th without amendment, and passed the same day by a vote of 38 to 26.

References. — *Text* in *U.S Statutes at Large*, XVIII, 335–337. For the proceedings see the *House and Senate Journals*, 43d Cong., 2d Sess., and the *Cong. Record*. See also Pierce, *Sumner*, IV, chaps. 57 and 59.

[1] An act of March 3, 1887, chap. 378, added San Francisco.

An act to protect all citizens in their civil and legal rights.

Whereas, it is essential to just government we recognize the equality of all men before the law, and hold that it is the duty of government in its dealings with the people to mete out equal and exact justice to all, of whatever nativity, race, color, or persuasion, religious or political; and it being the appropriate object of legislation to enact great fundamental principles into law: Therefore,

Be it enacted . . ., That all persons within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances on land or water, theaters, and other places of public amusement; subject only to the conditions and limitations established by law, and applicable alike to citizens of every race and color, regardless of any previous condition of servitude.

SEC. 2. That any person who shall violate the foregoing section by denying to any citizen, except for reasons by law applicable to citizens of every race and color, and regardless of any previous condition of servitude, the full enjoyment of any of the accommodations, advantages, facilities, or privileges in said section enumerated, or by aiding or inciting such denial, shall, for every such offense, forfeit and pay the sum of five hundred dollars to the person aggrieved thereby, to be recovered in an action of debt, with full costs; and shall also, for every such offense, be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five hundred nor more than one thousand dollars, or shall be imprisoned not less than thirty days nor more than one year: *Provided*, That all persons may elect to sue for the penalty aforesaid or to proceed under their rights at common law and by State statutes; and having so elected to proceed in the one mode or the other, their right to proceed in the other jurisdiction shall be barred. But this proviso shall not apply to criminal proceedings, either under this act or the criminal law of any State: *And provided further*, That a judgment for the penalty in favor of the party aggrieved, or a judgment upon an indictment, shall be a bar to either prosecution respectively.

SEC. 3. That the district and circuit courts of the United States shall have, exclusively of the courts of the several States, cognizance of all crimes and offenses against, and violations of, the provisions of this act; and actions for the penalty given by the preceding section may be prosecuted in the territorial, district, or circuit courts of the United States wherever the defendant may be found, without regard to the other party; and the district attorneys, marshals, and deputy marshals of the United States, and commissioners appointed by the circuit and territorial courts of the United States, with powers of arresting and imprisoning or bailing offenders against the laws of the United States, are hereby specially authorized and required to institute proceedings against every person who shall violate the provisions of this act, and cause him to be arrested and imprisoned or bailed, as the case may be, for trial before such court of the United States, or territorial court, as by law has cognizance of the offense, except in respect of the right of action accruing to the person aggrieved; and such district attorneys shall cause such proceedings to be prosecuted to their termination as in other cases: *Provided*, That nothing contained in this section shall be construed to deny or defeat any right of civil action accruing to any person, whether by reason of this act or otherwise; and any district attorney who shall willfully fail to institute and prosecute the proceedings herein required, shall, for every such offense, forfeit and pay the sum of five hundred dollars to the person aggrieved thereby, to be recovered by an action of debt, with full costs, and shall, on conviction thereof, be deemed guilty of a misdemeanor, and be fined not less than one thousand nor more than five thousand dollars: *And provided further*, That a judgment for the penalty in favor of the party aggrieved against any such district attorney, or a judgment upon an indictment against any such district attorney, shall be a bar to either prosecution respectively.

SEC. 4. That no citizen possessing all other qualifications which are or may be prescribed by law shall be disqualified for service as grand or petit juror in any court of the United States, or of any State, on account of race, color, or previous condition of servi-

tude; and any officer or other person charged with any duty in the selection or summoning of jurors who shall exclude or fail to summon any citizen for the cause aforesaid shall, on conviction thereof, be deemed guilty of a misdemeanor, and be fined not more than five thousand dollars.

SEC. 5. That all cases arising under the provisions of this act in the courts of the United States shall be reviewable by the Supreme Court of the United States, without regard to the sum in controversy, under the same provisions and regulations as are now provided by law for the review of other causes in said court.

APPROVED, March 1, 1875.

No. 100. Joint Resolution for the Issue of Silver Coin

July 22, 1876

A JOINT resolution for the issue of silver coin without limitation as to amount was introduced in the House May 1, 1876, by Rufus S. Frost of Massachusetts. An amended bill, drawn in accordance with the suggestions of the Treasurer of the United States, was reported, May 2, by the Committee on Banking and Currency. In submitting the amended bill it was stated that fractional currency was at the time commanding a premium of from three to three and one-half per cent. The resolution passed the House June 10. The Senate on the 21st, on motion of Sherman, added the section terminating the legal tender character of the trade dollar, and passed the bill. The bill was favorably reported in the House June 28, but the House added further amendments, and the bill went to a conference committee. The report of the committee was concurred in by the House, July 13, by a vote of 129 to 76, 82 not voting, and by the Senate the next day without a division.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XIX, 215. For the proceedings see the *House and Senate Journals*, 44th Cong., 1st Sess., and the *Cong. Record*. The important discussion was over the report of the conference committee. On the trade dollar see *Senate Exec. Doc. 80* and *House Misc. Doc. 44*, 45th Cong., 2d Sess.; *House Misc. Doc. 11*, 46th Cong., 1st Sess.; *House Report 534*, 46th Cong., 2d Sess.

Joint resolution for the issue of silver coin.

Resolved . . ., That the Secretary of the Treasury, under such limits and regulations as will best secure a just and fair distribu-

tion of the same through the country, may issue the silver coin at any time in the Treasury to an amount not exceeding ten million dollars, in exchange for an equal amount of legal-tender notes; and the notes so received in exchange shall be kept as a special fund separate and apart from all other money in the Treasury, and be reissued only upon the retirement and destruction of a like sum of fractional currency received at the Treasury in payment of dues to the United States; and said fractional currency, when so substituted, shall be destroyed and held as part of the sinking fund, as provided in the act approved April seventeen, eighteen hundred and seventy-six.

SEC. 2. That the trade dollar shall not hereafter be a legal tender, and the Secretary of the Treasury is hereby authorized to limit from time to time, the coinage thereof to such an amount as he may deem sufficient to meet the export demand for the same.

SEC. 3. That in addition to the amount of subsidiary silver coin authorized by law to be issued in redemption of the fractional currency it shall be lawful to manufacture at the several mints, and issue through the Treasury and its several offices, such coin, to an amount, that, including the amount of subsidiary silver coin and of fractional currency outstanding, shall, in the aggregate, not exceed, at any time, fifty million dollars.

SEC. 4. That the silver bullion required for the purposes of this resolution shall be purchased, from time to time, at market-rate, by the Secretary of the Treasury, with any money in the Treasury not otherwise appropriated; but no purchase of bullion shall be made under this resolution when the market-rate for the same shall be such as will not admit of the coinage and issue, as herein provided, without loss to the Treasury; and any gain or seigniorage arising from this coinage shall be accounted for and paid into the Treasury, as provided under existing laws relative to the subsidiary coinage: *Provided*, That the amount of money at any one time invested in such silver bullion, exclusive of such resulting coin, shall not exceed two hundred thousand dollars.

APPROVED, July 22, 1876.

No. 101. Electoral Count Act

January 29, 1877

THE result of the presidential election of 1876 turned on the counting of the electoral votes of South Carolina, Florida, Louisiana, and Oregon, from each of which States there were double returns. December 7, 1876, George W. McCrary of Iowa offered in the House a resolution for the appointment of a committee of five, to act with a similar committee of the Senate, with instructions to report a bill for the counting of the electoral vote. The Committee on the Judiciary, to whom the resolution was referred, reported on the 14th a substitute increasing the number of members to seven, which resolution was agreed to. A similar committee of seven was appointed by the Senate on the 18th. A committee was also appointed in the Senate to investigate the recent election, and in the House to inquire into the powers of the House in regard to counting the electoral vote. January 18 the joint committee reported a bill to regulate the electoral count. The bill passed the Senate without amendment on the 24th by a vote of 47 to 17, and the House on the 26th by a vote of 191 to 86, 14 not voting. The approval of President Grant was communicated in a special message. The count began February 1, and the result was announced in the early morning of March 2. The result of the count showed 185 votes for Hayes and Wheeler, the Republican candidates, and 184 votes for Tilden and Hendricks, the Democratic candidates.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XIX, 227–229. For the proceedings see the *House and Senate Journals*, 44th Cong., 2d Sess., and the *Cong. Record*. The report of the commission is in the *Record*, *ibid.*, Vol. 5, Part IV; it was also published separately. A large amount of documentary evidence was introduced in the debates. The other documentary literature is extensive. Important general references are: Stanwood, *History of the Presidency*, chap. 25; Johnston in *Lalor's Cyclopædia*, II, 50–53; Blaine, *Twenty Years of Congress*, II, chap. 25; Cox, *Three Decades*, chaps. 36 and 37; Sherman, *Recollections*, I, chap. 28.

An act to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March fourth, anno Domini eighteen hundred and seventy-seven.

Be it enacted . . ., That the Senate and House of Representatives shall meet in the hall of the House of Representatives, at the hour of one o'clock post meridian, on the first Thursday in February, anno Domini eighteen hundred and seventy-seven; and the

President of the Senate shall be their presiding officer. Two tellers shall be previously appointed on the part of the Senate, and two on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, all the certificates, and papers purporting to be certificates, of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter A; and said tellers having then read the same in the presence and hearing of the two houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted as in this act provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, and the names of the persons, if any, elected, which announcement shall be deemed a sufficient declaration of the persons elected President and Vice-President of the United States, and, together with a list of the votes, be entered on the journals of the two houses. Upon such reading of any such certificate or paper when there shall be only one return from a State, the President of the Senate shall call for objections, if any. Every objection shall be made in writing, and shall state clearly and concisely, and without argument, the ground thereof, and shall be signed by at least one Senator and one member of the House of Representatives before the same shall be received. When all objections so made to any vote or paper from a State shall have been received and read, the Senate shall thereupon withdraw, and such objections shall be submitted to the Senate for its decision; and the Speaker of the House of Representatives shall, in like manner, submit such objections to the House of Representatives for its decision; and no electoral vote or votes from any State from which but one return has been received shall be rejected except by the affirmative vote of the two Houses. When the two Houses have voted, they shall immediately again meet, and the presiding officer shall then announce the decision of the question submitted.

SEC. 2. That if more than one return, or paper purporting to be a return from a State, shall have been received by the Presi-

dent of the Senate, purporting to be the certificates of electoral votes given at the last preceding election for President and Vice-President in such State, (unless they shall be duplicates of the same return,) all such returns and papers shall be opened by him in the presence of the two Houses when met as aforesaid, and read by the tellers, and all such returns and papers shall thereupon be submitted to the judgment and decision as to which is the true and lawful electoral vote of such State, of a commission constituted as follows, namely: During the session of each House on the Tuesday next preceding the first Thursday in February, eighteen hundred and seventy-seven, each House shall, by viva voce vote, appoint five of its members, who with the five associate justices of the Supreme Court of the United States, to be ascertained as hereinafter provided, shall constitute a commission for the decision of all questions upon or in respect of such double returns named in this section. On the Tuesday next preceding the first Thursday in February, anno Domini eighteen hundred and seventy-seven, or as soon thereafter as may be, the associate justices of the Supreme Court of the United States now assigned to the first, third, eighth, and ninth circuits shall select, in such manner as a majority of them shall deem fit, another of the associate justices of said court, which five persons shall be members of said commission; and the person longest in commission of said five justices shall be the president of said commission. The members of said commission shall respectively take and subscribe the following oath: "I, ——— ———, do solemnly swear (or affirm, as the case may be) that I will impartially examine and consider all questions submitted to the commission of which I am a member, and a true judgment give thereon, agreeably to the Constitution and the laws: so help me God;" which oath shall be filed with the Secretary of the Senate. When the commission shall have been thus organized, it shall not be in the power of either house to dissolve the same, or to withdraw any of its members; but if any such Senator or member shall die or become physically unable to perform the duties required by this act, the fact of such death or physical inability shall be by said commission, before it shall

proceed further, communicated to the Senate or House of Representatives, as the case may be, which body shall immediately and without debate proceed by viva voce vote to fill the place so vacated, and the person so appointed shall take and subscribe the oath hereinbefore prescribed, and become a member of said commission; and, in like manner, if any of said justices of the Supreme Court shall die or become physically incapable of performing the duties required by this act, the other of said justices, members of the said commission, shall immediately appoint another justice of said court a member of said commission, and, in such appointments, regard shall be had to the impartiality and freedom from bias sought by the original appointments to said commission, who shall thereupon immediately take and subscribe the oath hereinbefore prescribed, and become a member of said commission to fill the vacancy so occasioned. All the certificates and papers purporting to be certificates of the electoral votes of each State shall be opened, in the alphabetical order of the States, as provided in section one of this act; and when there shall be more than one such certificate or paper, as the certificates and papers from such State shall so be opened, (excepting duplicates of the same return,) they shall be read by the tellers, and thereupon the President of the Senate shall call for objections, if any. Every objection shall be made in writing, and shall state clearly and concisely, and without argument, the ground thereof, and shall be signed by at least one Senator and one member of the House of Representatives before the same shall be received. When all such objections so made to any certificate, vote, or paper from a State shall have been received and read, all such certificates, votes, and papers so objected to, and all papers accompanying the same, together with such objections, shall be forthwith submitted to said commission, which shall proceed to consider the same, with the same powers, if any, now possessed for that purpose by the two Houses acting separately or together, and, by a majority of votes, decide whether any and what votes from such State are the votes provided for by the Constitution of the United States, and how many and what persons were duly appointed electors in such State,

and may therein take into view such petitions, depositions, and other papers, if any, as shall, by the Constitution and now existing law, be competent and pertinent in such consideration; which decision shall be made in writing, stating briefly the ground thereof, and signed by the members of said commission agreeing therein; whereupon the two houses shall again meet, and such decision shall be read and entered in the journal of each House, and the counting of the votes shall proceed in conformity therewith, unless, upon objection made thereto in writing by at least five Senators and five members of the House of Representatives, the two Houses shall separately concur in ordering otherwise, in which case such concurrent order shall govern. No votes or papers from any other State shall be acted upon until the objections previously made to the votes or papers from any State shall have been finally disposed of.

SEC. 3. That while the two Houses shall be in meeting, as provided in this act, no debate shall be allowed and no question shall be put by the presiding officer, except to either House on a motion to withdraw; and he shall have power to preserve order.

SEC. 4. That when the two Houses separate to decide upon an objection that may have been made to the counting of any electoral vote or votes from any State, or upon objection to a report of said commission, or other question arising under this act, each Senator and Representative may speak to such objection or question ten minutes, and not oftener than once; but after such debate shall have lasted two hours, it shall be the duty of each House to put the main question without further debate.

SEC. 5. That at such joint meeting of the two Houses, seats shall be provided as follows: For the President of the Senate, the Speaker's chair; for the Speaker, immediately upon his left; the Senators in the body of the hall upon the right of the presiding officer; for the Representatives, in the body of the hall not provided for the Senators; for the tellers, Secretary of the Senate, and Clerk of the House of Representatives, at the Clerk's desk; for the other officers of the two Houses, in front of the Clerk's desk and upon each side of the Speaker's platform. Such joint meet-

ing shall not be dissolved until the count of electoral votes shall be completed and the result declared; and no recess shall be taken unless a question shall have arisen in regard to counting any such votes, or otherwise under this act, in which case it shall be competent for either House, acting separately, in the manner hereinbefore provided, to direct a recess of such House not beyond the next day, Sunday excepted, at the hour of ten o'clock in the forenoon. And while any question is being considered by said commission, either House may proceed with its legislative or other business.

SEC. 6. That nothing in this act shall be held to impair or affect any right now existing under the Constitution and laws to question, by proceeding in the judical courts of the United States, the right or title of the person who shall be declared elected, or who shall claim to be President or Vice-President of the United States, if any such right exists.

SEC. 7. That said commission shall make its own rules, keep a record of its proceedings, and shall have power to employ such persons as may be necessary for the transaction of its business and the execution of its powers.

APPROVED, January 29, 1877.

No. 102. Coinage of the Standard Silver Dollar

February 28, 1878

THE coinage act of February 12, 1875 [No. 93], omitted the silver dollar from the list of pieces thereafter to be coined, but retained the trade dollar. A bill to provide for the free and unlimited coinage of silver dollars was introduced in the House, December 13, 1876, by Richard P. Bland of Missouri, as a substitute for a bill "to utilize the products of gold and silver mines," introduced June 3. The bill passed the House the same day by a vote of 167 to 53, 69 not voting. In the Senate the bill was referred to the Committee on Finance, which reported it January 16, 1877, without recommendation, pending the report of the silver commission. November 5, by a

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vote of 164 to 34, 92 not voting, the rules were suspended to allow Bland to introduce and the House to pass a free coinage bill.[1] The bill was taken up in the Senate January 28 and debated until February 15. The Senate added sections 2 and 3 of the act, the provisos of section 1, and, on motion of William B. Allison of Iowa, the limitation on the amount of coinage, the vote on the latter amendment being 49 to 22. The final vote in the Senate was 48 to 21, 7 not voting. February 21 the House concurred in the Senate amendments. On the 28th the bill was vetoed by President Hayes, but was passed over the veto, in the House by a vote of 196 to 73, 23 not voting; in the Senate by a vote of 46 to 19, 11 not voting. The coinage provision of the act was repealed by section 5 of the act of July 14, 1890 [No. 121, *post*].

REFERENCES. — *Text* in *U.S. Statutes at Large*, XX, 25, 26. For the proceedings see the *House and Senate Journals*, 45th Cong., 2d Sess., and the *Cong. Globe*. See *House Misc. Doc. 27; Senate Exec. Doc. 3*, 50th Cong., 2d Sess.; Dewey, *Financial History*, chap. 17, and references there given; Blaine, *Twenty Years of Congress*, II, chap. 26; Sherman, *Recollections*, II, chaps. 31 and 32, and annual report as Secretary of the Treasury, December, 1877.

An act to authorize the coinage of the standard silver dollar, and to restore its legal-tender character.

Be it enacted . . ., That there shall be coined, at the several mints of the United States, silver dollars of the weight of four hundred and twelve and a half grains Troy of standard silver, as provided in the act of January eighteenth, eighteen hundred thirty-seven, on which shall be the devices and superscriptions provided by said act; which coins together with all silver dollars heretofore coined by the United States, of like weight and fineness, shall be a legal tender, at their nominal value, for all debts and dues public and private, except where otherwise expressly stipulated in the contract. And the Secretary of the Treasury is authorized and directed to purchase, from time to time, silver bullion, at the market price thereof, not less than two million dollars worth per month, nor more than four million dollars worth per month, and cause the same to be coined monthly, as fast as so purchased,

[1] "The previous question being ordered and the rules suspended, a single vote would introduce the bill without a reference to a committee, and would pass it without any power of amendment, without the usual reading at three separate times." (Sherman, *Recollections*, II, 603.)

into such dollars; and a sum sufficient to carry out the foregoing provision of this act is hereby appropriated out of any money in the Treasury not otherwise appropriated. And any gain or seigniorage arising from this coinage shall be accounted for and paid into the Treasury, as provided under existing laws relative to the subsidiary coinage: *Provided*, That the amount of money at any one time invested in such silver bullion, exclusive of such resulting coin, shall not exceed five million dollars: *And provided further*, That nothing in this act shall be construed to authorize the payment in silver of certificates of deposit issued under the provisions of section two hundred and fifty-four of the Revised Statutes.

SEC. 2. That immediately after the passage of this act, the President shall invite the governments of the countries composing the Latin Union, so-called, and of such other European nations as he may deem advisable, to join the United States in a conference to adopt a common ratio between gold and silver, for the purpose of establishing, internationally, the use of bi-metallic money, and securing fixity of relative value between those metals; such conference to be held at such place, in Europe or in the United States, at such time within six months, as may be mutually agreed upon by the executives of the governments joining in the same, whenever the governments so invited, or any three of them, shall have signified their willingness to unite in the same.

The President shall, by and with the advice and consent of the Senate, appoint three commissioners, who shall attend such conference on behalf of the United States, and shall report the doings thereof to the President, who shall transmit the same to Congress.

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SEC. 3. That any holder of the coin authorized by this act may deposit the same with the Treasurer or any assistant treasurer of the United States, in sums not less than ten dollars, and receive therefor certificates of not less than ten dollars each, corresponding with the denominations of the United States notes. The coin deposited for or representing the certificates shall be retained in the Treasury for the payment of the same on demand. Said certifi-

cates shall be receivable for customs, taxes, and all public dues, and, when so received, may be reissued.

Sec. 4. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

No. 103. Act forbidding the Further Retirement of Legal Tender Notes

May 31, 1878

April 29, 1878, in the House, Greenbury L. Fort of Illinois moved a suspension of the rules to allow the introduction and passage of a bill to forbid the further retirement of United States legal tender notes. By a vote of 117 to 35, 79 not voting, the motion prevailed. The second reading was voted in the Senate May 7, 34 to 23. On the 21st the Committee on Finance reported the bill without amendment. The bill was taken up on the 27th by a vote of 28 to 26, and passed the next day, the final vote being 41 to 18.

References. — *Text* in *U.S. Statutes at Large*, XX, 87. For the proceedings see the *House and Senate Journals*, 45th Cong., 2d Sess., and the *Cong. Record.* On the constitutionality of the act see *Juilliard v. Greenman*, 110 *U.S. Reports*, 421, and Thayer, *Cases on Constitutional Law*, II, 2267–2273.

An act to forbid the further retirement of United States legal-tender notes.

Be it enacted . . ., That from and after the passage of this act it shall not be lawful for the Secretary of the Treasury or other officer under him to cancel or retire any more of the United States legal-tender notes. And when any of said notes may be redeemed or be received into the Treasury under any law from any source whatever and shall belong to the United States, they shall not be retired cancelled or destroyed but they shall be re-issued and paid out again and kept in circulation: *Provided*, That nothing herein shall prohibit the cancellation and destruction of mutilated notes and the issue of other notes of like denomination in their stead, as now provided by law.

All acts and parts of acts in conflict herewith are hereby repealed.

Approved, May 31, 1878.

No. 104. Use of the Army at the Polls

May 4, 1880

THE army appropriation act of June 18, 1878, forbade the use of the army as a *posse comitatus* save as authorized by the Constitution or an act of Congress. The army appropriation bill of the next year, containing a provision prohibiting the use of the army at the polls, was vetoed by President Hayes. The army bill of 1880 was reported in the House March 30, and April 13 the amendment contained in section 2 of the act was agreed to, the vote being 117 to 96, 79 not voting. April 22, in the Senate, amendments offered by Edmunds, Blaine, and others to nullify this section were rejected and the bill passed, the final vote being 28 to 18.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XXI, 113, 114. For the proceedings see the *House and Senate Journals*, 46th Cong., 2d Sess., and the *Cong. Record*. Hayes's veto message of April 29, 1879, reviews the previous legislation.

An act making appropriations for the support of the Army for the fiscal year ending June thirtieth, eighteen hundred and eighty-one, and for other purposes.

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SEC. 2. That no money appropriated in this act is appropriated or shall be paid for the subsistence, equipment, transportation, or compensation of any portion of the Army of the United States to be used as a police force to keep the peace at the polls at any election held within any State: *Provided*, That nothing in this provision shall be construed to prevent the use of troops to protect against domestic violence in each of the States on application of the legislature thereof or of the executive when the legislature cannot be convened.

APPROVED, May 4, 1880.

No. 105. Purchase of Bonds

March 3, 1881

SECTION 2 of the sundry civil appropriation act of March 3, 1881, authorizing the application of the surplus to the purchase of bonds, was offered as an amendment to the bill, March 2, by Thomas F. Bayard of Delaware, from the Senate Committee on Finance, and was agreed to without debate. In his annual message of December 6, 1887, President Cleveland pointed out that "the only pretense of any existing executive power" to prevent the accumulation of surplus revenue "consists in the supposition that the Secretary of the Treasury may enter the market and purchase the bonds of the Government not yet due, at a rate of premium to be agreed upon"; and he expressed a doubt as to whether the provision of the act of 1881 was properly to be regarded as still in effect. A bill to give the Secretary of the Treasury the necessary authority was introduced in the House January 16, 1888, and passed that body February 29. The Senate passed the bill with amendments April 5, and the bill went to a conference committee, where it remained. By a resolution of April 16, agreed to under suspension of the rules, the House declared that the provision of the act of 1881 "was intended to be a permanent provision of law; and the same is hereby declared to have been since its enactment and to be now, in the opinion of the House, in full force and effect." The vote on the motion to suspend the rules was 138 to 64, 123 not voting.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XXI, 457. For the later proceedings see the *House and Senate Journals*, 50th Cong., 1st Sess., and the *Cong. Record;* see also *Senate Report 453*.

An act making appropriations for sundry civil expenses of the government for the fiscal year ending June thirtieth, eighteen hundred and eighty-two, and for other purposes.

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SEC. 2. That the Secretary of the Treasury may at any time apply the surplus money in the Treasury not otherwise appropriated, or so much thereof as he may consider proper, to the purchase or redemption of United States bonds: *Provided*, That the bonds so purchased or redeemed shall constitute no part of the sinking fund but shall be cancelled.

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APPROVED, March 3, 1881.

No. 106. Anti-Polygamy Act

March 22, 1882

In his annual message of December 6, 1881, President Arthur called attention to the spread of Mormonism in the Territories, and repeated the recommendations of previous messages for more stringent legislation. A bill "in reference to bigamy, and for other purposes," was introduced in the Senate, December 12, 1881, by Edmunds of Vermont, and referred to the Committee on the Judiciary. January 24 the committee reported the bill with numerous amendments. The bill passed the Senate February 16 and the House March 13, the vote in the House being 199 to 42, 51 not voting.

References. — *Text* in *U.S. Statutes at Large*, XXII, 30–32. For the proceedings see the *House and Senate Journals*, 47th Cong., 1st Sess., and the *Cong. Record*. On the constitutional bearings of the act see *Murphy v. Ramsey*, 114 *U.S. Reports*, 15; *Cannon v. United States*, 116 *ibid.*, 55; *Davis v. Beason*, 133 *ibid.*, 333.

An act to amend section fifty-three hundred and fifty-two of the Revised Statutes of the United States, in reference to bigamy, and for other purposes.

Be it enacted . . ., That section fifty-three hundred and fifty-two of the Revised Statutes of the United States[1] be, and the same is hereby, amended so as to read as follows, namely:

"Every person who has a husband or wife living who, in a Territory or other place over which the United States have exclusive jurisdiction, hereafter marries another, whether married or single, and any man who hereafter simultaneously, or on the same day, marries more than one woman, in a Territory or other place over which the United States have exclusive jurisdiction, is guilty of polygamy, and shall be punished by a fine of not more than five hundred dollars and by imprisonment for a term of not more than five years; but this section shall not extend to any person by reason of any former marriage whose husband or wife by such marriage shall have been absent for five successive years, and is not known to such person to be living, and is believed by such person to be dead, nor to any person by reason of any former marriage which shall have been dissolved by a valid decree of a

[1] Section 1 of the act of July 1, 1862 [No. 21, *ante*].

competent court, nor to any person by reason of any former marriage which shall have been pronounced void by a valid decree of a competent court, on the ground of nullity of the marriage contract."

SEC. 2. That the foregoing provisions shall not affect the prosecution or punishment of any offense already committed against the section amended by the first section of this act.

SEC. 3. That if any male person, in a Territory or other place over which the United States have exclusive jurisdiction, hereafter cohabits with more than one woman, he shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than three hundred dollars, or by imprisonment for not more than six months, or by both said punishments, in the discretion of the court.

SEC. 4. That counts for any or all of the offenses named in sections one and three of this act may be joined in the same information or indictment.

SEC. 5. That in any prosecution for bigamy, polygamy, or unlawful cohabitation, under any statute of the United States, it shall be sufficient cause of challenge to any person drawn or summoned as a juryman or talesman, first, that he is or has been living in the practice of bigamy, polygamy, or unlawful cohabitation with more than one woman, or that he is or has been guilty of an offense punishable by either of the foregoing sections, or by section fifty-three hundred and fifty-two of the Revised Statutes of the United States, or the act of July first, eighteen hundred and sixty-two, entitled "An act to punish and prevent the practice of polygamy in the Territories of the United States and other places, and disapproving and annulling certain acts of the legislative assembly of the Territory of Utah," or, second, that he believes it right for a man to have more than one living and undivorced wife at the same time, or to live in the practice of cohabiting with more than one woman; and any person appearing or offered as a juror or talesman, and challenged on either of the foregoing grounds, may be questioned on his oath as to the existence of any such cause of challenge, and other evidence may be introduced bearing upon the question raised by such challenge;

and this question shall be tried by the court. But as to the first ground of challenge before mentioned, the person challenged shall not be bound to answer if he shall say upon his oath that he declines on the ground that his answer may tend to criminate himself; and if he shall answer as to said first ground, his answer shall not be given in evidence in any criminal prosecution against him for any offense named in sections one or three of this act; but if he declines to answer on any ground, he shall be rejected as incompetent.

SEC. 6. That the President is hereby authorized to grant amnesty to such classes of offenders guilty of bigamy, polygamy, or unlawful cohabitation, before the passage of this act, on such conditions and under such limitations as he shall think proper; but no such amnesty shall have effect unless the conditions thereof shall be complied with.

SEC. 7. That the issue of bigamous or polygamous marriages, known as Mormon marriages, in cases in which such marriages have been solemnized according to the ceremonies of the Mormon sect, in any Territory of the United States, and such issue shall have been born before the first day of January, anno Domini eighteen hundred and eighty-three, are hereby legitimated.

SEC. 8. That no polygamist, bigamist, or any person cohabiting with more than one woman, and no woman cohabiting with any of the persons described as aforesaid in this section, in any Territory or other place over which the United States have exclusive jurisdiction, shall be entitled to vote at any election held in any such Territory or other place, or be eligible for election or appointment to or be entitled to hold any office or place of public trust, honor, or emolument in, under, or for any such Territory or place, or under the United States.

SEC. 9. That all the registration and election offices of every description in the Territory of Utah are hereby declared vacant, and each and every duty relating to the registration of voters, the conduct of elections, the receiving or rejection of votes, and the canvassing and returning of the same, and the issuing of certificates or other evidence of election in said Territory, shall, until

other provision be made by the legislative assembly of said Territory as is hereinafter by this section provided, be performed under the existing laws of the United States and of said Territory by proper persons, who shall be appointed to execute such offices and perform such duties by a board of five persons, to be appointed by the President, by and with the advice and consent of the Senate, not more than three of whom shall be members of one political party; and a majority of whom shall be a quorum. The members of said board so appointed by the President shall each receive a salary at the rate of three thousand dollars per annum, and shall continue in office until the legislative assembly of said Territory shall make provision for filling said offices as herein authorized. The Secretary of the Territory shall be the secretary of said board, and keep a journal of its proceedings, and attest the action of said board under this section. The canvass and return of all the votes at elections in said Territory for members of the legislative assembly thereof shall also be returned to said board, which shall canvass all such returns and issue certificates of election to those persons who, being eligible for such election, shall appear to have been lawfully elected, which certificates shall be the only evidence of the right of such persons to sit in such assembly: *Provided*, That said board of five persons shall not exclude any person otherwise eligible to vote from the polls on account of any opinion such person may entertain on the subject of bigamy or polygamy nor shall they refuse to count any such vote on account of the opinion of the person casting it on the subject of bigamy or polygamy; but each house of such assembly, after its organization, shall have power to decide upon the elections and qualifications of its members. And at, or after the first meeting of said legislative assembly whose members shall have been elected and returned according to the provisions of this act, said legislative assembly may make such laws, conformable to the organic act of said Territory and not inconsistent with other laws of the United States, as it shall deem proper concerning the filling of the offices in said Territory declared vacant by this act.

Approved, March 22, 1882.

No. 107. Act restricting Chinese Immigration

May 6, 1882

A BILL "to restrict the immigration of Chinese to the United States" was vetoed by President Hayes, March 1, 1879, principally on the ground of the interference of the proposed act with the Burlingame treaty of 1869. April 6, 1882, a bill "to execute certain treaty stipulations relating to Chinese" was introduced in the House by Campbell P. Berry of California, and referred to the Committee on Education and Labor, together with a bill "to regulate, limit, and suspend the immigration of Chinese laborers," introduced by Albert S. Willis of Kentucky. A substitute for the Berry bill was reported April 12, and on the 17th, by a vote of 202 to 37, 52 not voting, the rules were suspended and the bill passed. The Senate in committee added numerous amendments, among them amendments striking out sections 14 and 15, forbidding naturalization and defining "Chinese laborers": these last two amendments were non-concurred in by the Senate by votes of 26 to 32 and 20 to 25, respectively. On the 28th the bill passed the Senate. The amendments of the Senate were accepted by the House. The act was amended in numerous details by an act of July 5, 1884, and made to apply "to all subjects of China and Chinese, whether subjects of China or any other foreign power." A supplementary act of October 1, 1888, forbade the return of Chinese laborers who had left the United States. The acts of May 6, 1882, and July 5, 1884, were repealed by section 15 of the act of September 13, 1888 [No. 119].

REFERENCES. — *Text* in *U.S. Statutes at Large*, XXII, 58–61. For the proceedings see the *House and Senate Journals*, 47th Cong., 1st Sess., and the *Cong. Record.* The text of the House bill is in the *Record*, April 17; the Senate amendments are in *ibid.*, April 25. The report accompanying the House bill is *House Report 1017.* On the general subject see, besides Hayes's veto message, *Senate Report 689*, 44th Cong., 2d Sess.; *House Report 240* and *Senate Misc. Doc. 36*, 45th Cong., 2d Sess.; *House Report 62, ibid.*, 3d Sess.; *House Exec. Doc. 70* and *House Report 572*, 46th Cong., 2d Sess.

An act to execute certain treaty stipulations relating to Chinese.

WHEREAS, in the opinion of the Government of the United States the coming of Chinese laborers to this country endangers the good order of certain localities within the territory thereof: Therefore,

Be it enacted . . ., That from and after the expiration of ninety days next after the passage of this act, and until the expiration of

ten years next after the passage of this act, the coming of Chinese laborers to the United States be, and the same is hereby, suspended; and during such suspension it shall not be lawful for any Chinese laborer to come, or, having so come after the expiration of said ninety days, to remain within the United States.

SEC. 2. That the master of any vessel who shall knowingly bring within the United States on such vessel, and land or permit to be landed, any Chinese laborer, from any foreign port or place, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than five hundred dollars for each and every such Chinese laborer so brought, and may be also imprisoned for a term not exceeding one year.

SEC. 3. That the two foregoing sections shall not apply to Chinese laborers who were in the United States on the seventeenth day of November, eighteen hundred and eighty, or who shall have come into the same before the expiration of ninety days next after the passage of this act, and who shall produce to such master before going on board such vessel, and shall produce to the collector of the port in the United States at which such vessel shall arrive, the evidence hereinafter in this act required of his being one of the laborers in this section mentioned; nor shall the two foregoing sections apply to the case of any master whose vessel, being bound to a port not within the United States, shall come within the jurisdiction of the United States by reason of being in distress or in stress of weather, or touching at any port of the United States on its voyage to any foreign port or place: *Provided*, That all Chinese laborers brought on such vessel shall depart with the vessel on leaving port.

SEC. 4. That for the purpose of properly identifying Chinese laborers who were in the United States on the seventeenth day of November, eighteen hundred and eighty, or who shall have come into the same before the expiration of ninety days next after the passage of this act, and in order to furnish them with the proper evidence of their right to go from and come to the United States of their free will and accord, as provided by the treaty between the United States and China dated November seventeenth,

eighteen hundred and eighty, the collector of customs of the district from which any such Chinese laborer shall depart from the United States shall, in person or by deputy, go on board each vessel having on board any such Chinese laborer and cleared or about to sail from his district for a foreign port, and on such vessel make a list of all such Chinese laborers, which shall be entered in registry-books to be kept for that purpose, in which shall be stated the name, age, occupation, last place of residence, physical marks or peculiarities, and all facts necessary for the identification of each of such Chinese laborers, which books shall be safely kept in the custom-house; and every such Chinese laborer so departing from the United States shall be entitled to, and shall receive, free of any charge or cost upon application therefor, from the collector or his deputy, at the time such list is taken, a certificate, signed by the collector or his deputy and attested by his seal of office, in such form as the Secretary of the Treasury shall prescribe, which certificate shall contain a statement of the name, age, occupation, last place of residence, personal description, and facts of identification of the Chinese laborer to whom the certificate is issued, corresponding with the said list and registry in all particulars. In case any Chinese laborer after having received such certificate shall leave such vessel before her departure he shall deliver his certificate to the master of the vessel, and if such Chinese laborer shall fail to return to such vessel before her departure from port the certificate shall be delivered by the master to the collector of customs for cancellation. The certificate herein provided for shall entitle the Chinese laborer to whom the same is issued to return to and re-enter the United States upon producing and delivering the same to the collector of customs of the district at which such Chinese laborer shall seek to re-enter; and upon delivery of such certificate by such Chinese laborer to the collector of customs at the time of re-entry in the United States, said collector shall cause the same to be filed in the custom-house and duly cancelled.[1]

[1] By the act of October 1, 1888, the issue of certificates of identity was discontinued, and certificates already issued were declared null and void.

SEC. 5. [Certificate to issue on departure from United States, by land, free of cost.]

SEC. 6. That in order to the faithful execution of articles one and two of the treaty in this act before mentioned, every Chinese person other than a laborer who may be entitled by said treaty and this act to come within the United States, and who shall be about to come to the United States, shall be identified as so entitled by the Chinese Government in each case, such identity to be evidenced by a certificate issued under the authority of said government, which certificate shall be in the English language or (if not in the English language) accompanied by a translation into English, stating such right to come, and which certificate shall state the name, title, or official rank, if any, the age, height, and all physical peculiarities, former and present occupation or profession, and place of residence in China of the person to whom the certificate is issued and that such person is entitled comformably to the treaty in this act mentioned to come within the United States. Such certificate shall be prima-facie evidence of the fact set forth therein, and shall be produced to the collector of customs, or his deputy, of the port in the district in the United States at which the person named therein shall arrive.

SEC. 7. [Fraudulent certificates.]

SEC. 8. That the master of any vessel arriving in the United States from any foreign port or place shall, at the same time he delivers a manifest of the cargo, and if there be no cargo, then at the time of making a report of the entry of the vessel pursuant to law, in addition to the other matter required to be reported, and before landing, or permitting to land, any Chinese passengers, deliver and report to the collector of customs of the district in which such vessels shall have arrived a separate list of all Chinese passengers taken on board his vessel at any foreign port or place, and all such passengers on board the vessel at that time. Such list shall show the names of such passengers (and if accredited officers of the Chinese Government traveling on the business of that government, or their servants, with a note of such facts), and the names and other particulars, as shown by their respective cer-

tificates; and such list shall be sworn to by the master in the manner required by law in relation to the manifest of the cargo. Any willful refusal or neglect of any such master to comply with the provisions of this section shall incur the same penalties and forfeiture as are provided for a refusal or neglect to report and deliver a manifest of the cargo.

SEC. 9. That before any Chinese passengers are landed from any such vessel, the collector, or his deputy, shall proceed to examine such passengers, comparing the certificates with the list and with the passengers; and no passenger shall be allowed to land in the United States from such vessel in violation of law.

SEC. 10. [Forfeiture of vessels for violation of provisions of act.]

SEC. 11. That any person who shall knowingly bring into or cause to be brought into the United States by land, or who shall knowingly aid or abet the same, or aid or abet the landing in the United States from any vessel of any Chinese person not lawfully entitled to enter the United States, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be fined in a sum not exceeding one thousand dollars, and imprisoned for a term not exceeding one year.

SEC. 12. That no Chinese person shall be permitted to enter the United States by land without producing to the proper officer of customs the certificate in this act required of Chinese persons seeking to land from a vessel. And any Chinese person found unlawfully within the United States shall be caused to be removed therefrom to the country from whence he came, by direction of the President of the United States, and at the cost of the United States, after being brought before some justice, judge, or commissioner of a court of the United States and found to be one not lawfully entitled to be or remain in the United States.

SEC. 13. That this act shall not apply to diplomatic and other officers of the Chinese Government traveling upon the business of that government, whose credentials shall be taken as equivalent to the certificate in this act mentioned, and shall exempt them and their body and household servants from the provisions of this act as to other Chinese persons.

Sec. 14. That hereafter no State court or court of the United States shall admit Chinese to citizenship; and all laws in conflict with this act are hereby repealed.

Sec. 15. That the words, "Chinese laborers," wherever used in this act, shall be construed to mean both skilled and unskilled laborers and Chinese employed in mining.

Approved, May 6, 1882.

No. 108. National Bank Circulation, Bonds, and Gold Certificates

July 12, 1882

A bill "to enable national banking associations to extend their corporate existence" was introduced in the House, January 9, 1882, by W. W. Crapo of Massachusetts, and referred to the Committee on Banking and Currency. A substitute was reported by the committee February 7. The bill was not taken up until May 13. The House added various amendments, among them the provision for the issue of three per cent bonds, being the substance of a bill which passed the Senate December 5, and the proviso limiting the circulation of a bank to ninety per cent of the par value of the bonds deposited as security, the vote on this last amendment being 109 to 81, 101 not voting. May 19 the bill passed the House by a vote of 125 to 67, 99 not voting. The bill with amendments passed the Senate June 22, the vote being 34 to 13. A conference committee settled the final form of the bill. The report of the committee was agreed to by the House July 10 by a vote of 109 to 79, 102 not voting, and by the Senate the following day without a division.

References. — *Text* in *U.S. Statutes at Large*, XXII, 162–166. For the proceedings see the *House and Senate Journals*, 47th Cong., 1st Sess., and the *Cong. Record*. The bill formed the principal subject of debate during the period in which it was considered. The text of the House bill, with the proposed amendments and substitutes, is in the *Record* for May 13; see also Crapo's remarks. An amended text, showing the bill in process, is in *ibid.*, May 18.

An act to enable national-banking associations to extend their corporate existence, and for other purposes.

[Sections 1–7 relate to the extension for not more than twenty years of the corporate existence of national banking associations,

the redemption and destruction of certain circulating notes in such cases, &c.]

SEC. 8. That national banks now organized or hereafter organized, having a capital of one hundred and fifty thousand dollars, or less, shall not be required to keep on deposit or deposit with the Treasurer of the United States United States bonds in excess of one-fourth of their capital stock as security for their circulating notes; but such banks shall keep on deposit or deposit with the Treasurer of the United States the amount of bonds as herein required. And such of those banks having on deposit bonds in excess of that amount are authorized to reduce their circulation by the deposit of lawful money as provided by law; *Provided*, That the amount of such circulating notes shall not in any case exceed ninety per centum of the par value of the bonds deposited as herein provided: *Provided further*, That the national banks which shall hereafter make deposits of lawful money for the retirement in full of their circulation shall at the time of their deposit be assessed for the cost of transporting and redeeming their notes then outstanding, a sum equal to the average cost of the redemption of national-bank notes during the preceding year, and shall thereupon pay such assessment. And all national banks which have heretofore made or shall hereafter make deposits of lawful money for the reduction of their circulation shall be assessed and shall pay an assessment in the manner specified in section three of the act approved June twentieth, eighteen hundred and seventy-four, for the cost of transporting and redeeming their notes redeemed from such deposits subsequently to June thirtieth, eighteen hundred and eighty-one.

SEC. 9. That any national banking association now organized, or hereafter organized, desiring to withdraw its circulating notes, upon a deposit of lawful money with the Treasurer of the United States, as provided in section four of the act of June twentieth, eighteen hundred and seventy-four, entitled "An act fixing the amount of United States notes, providing for a redistribution of national-bank currency, and for other purposes," or as provided in this act, is authorized to deposit lawful money and withdraw

a proportionate amount of the bonds held as security for its circulating notes in the order of such deposits; and no national bank which makes any deposit of lawful money in order to withdraw its circulating notes shall be entitled to receive any increase of its circulation for the period of six months from the time it made such deposit of lawful money for the purpose aforesaid: *Provided*, That not more than three millions of dollars of lawful money shall be deposited during any calendar month for this purpose: *And provided further*, That the provisions of this section shall not apply to bonds called for redemption by the Secretary of the Treasury, nor to the withdrawal of circulating notes in consequence thereof.

SEC. 10. That upon a deposit of bonds as described by sections fifty-one hundred and fifty-nine and fifty-one hundred and sixty, except as modified by section four of . . . [the act of June 20, 1874] . . ., and as modified by section eight, of this act, the association making the same shall be entitled to receive from the Comptroller of the Currency circulating notes of different denominations, in blank, registered and countersigned as provided by law, equal in amount to ninety per centum of the current market value, not exceeding par, of the United States bonds so transferred and delivered, and at no time shall the total amount of such notes issued to any such association exceed ninety per centum of the amount at such time actually paid in of its capital stock; and the provisions of sections fifty-one hundred and seventy-one and fifty-one hundred and seventy-six of the Revised Statutes are hereby repealed.

SEC. 11. That the Secretary of the Treasury is hereby authorized to receive at the Treasury any bonds of the United States bearing three and a half per centum interest, and to issue in exchange therefor an equal amount of registered bonds of the United States of the denominations of fifty, one hundred, five hundred, one thousand, and ten thousand dollars, of such form as he may prescribe, bearing interest at the rate of three per centum per annum, payable quarterly at the Treasury of the United States. Such bonds shall be exempt from all taxation by or under State

authority, and be payable at the pleasure of the United States: *Provided*, That the bonds herein authorized shall not be called in and paid so long as any bonds of the United States heretofore issued bearing a higher rate of interest than three per centum, and which shall be redeemable at the pleasure of the United States, shall be outstanding and uncalled. The last of the said bonds originally issued under this act, and their substitutes, shall be first called in, and this order of payment shall be followed until all shall have been paid.

SEC. 12. That the Secretary of the Treasury is authorized and directed to receive deposits of gold coin with the Treasurer or assistant treasurers of the United States, in sums not less than twenty dollars, and to issue certificates therefor in denominations of not less than twenty dollars each, corresponding with the denominations of United States notes. The coin deposited for or representing the certificates of deposits shall be retained in the Treasury for the payment of the same on demand. Said certificates shall be receivable for customs, taxes, and all public dues, and when so received may be reissued; and such certificates, as also silver certificates, when held by any national-banking association, shall be counted as part of its lawful reserve; and no national-banking association shall be a member of any clearing-house in which such certificates shall not be receivable in the settlement of clearing-house balances: *Provided*, That the Secretary of the Treasury shall suspend the issue of such gold certificates whenever the amount of gold coin and gold bullion in the Treasury reserved for the redemption of United States notes falls below one hundred millions of dollars; and the provisions of section fifty-two hundred and seven of the Revised Statutes shall be applicable to the certificates herein authorized and directed to be issued.

SEC. 13. [Penalty for falsely certifying checks.]

SEC. 14. That Congress may at any time amend, alter, or repeal this act and the acts of which this is amendatory.

APPROVED, July 12, 1882.

No. 109. Civil Service Act

January 16, 1883

In his annual message of December 5, 1870, President Grant urged the attention of Congress to "a reform in the civil service of the country." In accordance with this recommendation, the sundry civil appropriation act of March 3, 1871, authorized the President to prescribe regulations for admission to the civil service. A civil service commission was appointed, and for two years appropriations were made for its support. The continuance of the appropriations was urged by Grant, and again by President Hayes in his annual messages of 1879 and 1880, but without inducing congressional action. The assassination of President Garfield called public attention forcibly to the evils of the existing system of appointment and removal, and the annual message of President Arthur, December 6, 1881, brought the subject of civil service reform strongly before Congress. A bill "to regulate and improve the civil service" was introduced in the Senate, December 6, 1881, by George H. Pendleton of Ohio, and on January 11, 1882, was referred, together with a bill "to prevent extortion from persons in the public service, and bribery and coercion by such persons," to the Committee on the Civil Service and Retrenchment. The bill was reported with amendments March 29, the committee report to accompany it not being submitted until May 15. The session closed without further action. The Pendleton bill was taken up December 11 and formed the principal subject of debate until the 27th, when, with various amendments, it passed the Senate by a vote of 38 to 5, 33 not voting. The bill was reported in the House without amendment January 4, 1883, read three times and passed, the final vote being 155 to 46, 88 not voting.

References. — *Text* in *U.S. Statutes at Large*, XXII, 403-407. For the proceedings see the *House and Senate Journals*, 47th Cong., 1st and 2d Sess., and the *Cong. Record*. Pendleton's report of May 15 is *Senate Report 576*. The annual reports of the Civil Service Commission are the primary authorities on the operation of the act; see also the *Proceedings* of the National Civil Service Reform League. The pamphlet and periodical literature is extensive. On the earlier history of the movement see *House Report 47*, 40th Cong., 2d Sess. (Jenckes's report); *Senate Exec. Doc. 10*, 42d Cong., 2d Sess., and *Senate Exec. Doc. 53* (same in *House Exec. Doc. 221*), 43d Cong., 1st Sess. (commission reports); *Senate Report 289*, 44th Cong., 1st Sess. (Boutwell's report); *House Exec. Doc. 1*, Part 1, 46th Cong., 2d Sess. (Eaton's report); *House Exec. Doc. 1*, Part 8, *ibid.*, and *House Exec. Doc. 94*, 46th Cong., 3d Sess. (New York regulations); *Senate Report 872*, 46th Cong., 3d Sess. (Pendleton's report). See also *Senate Report 2373*, 50th Cong., 1st Sess.

An act to regulate and improve the civil service of the United States.

Be it enacted . . ., That the President is authorized to appoint, by and with the advice and consent of the Senate, three persons, not more than two of whom shall be adherents of the same party, as Civil Service Commissioners, and said three commissioners shall constitute the United States Civil Service Commission. Said commissioners shall hold no other official place under the United States.

The President may remove any commissioner; and any vacancy in the position of commissioner shall be so filled by the President, by and with the advice and consent of the Senate, as to conform to said conditions for the first selection of commissioners.

* * * * * * *

SEC. 2. That it shall be the duty of said commissioners:

FIRST. To aid the President, as he may request, in preparing suitable rules for carrying this act into effect, and when said rules shall have been promulgated it shall be the duty of all officers of the United States in the departments and offices to which any such rules may relate to aid, in all proper ways, in carrying said rules, and any modifications thereof, into effect.

SECOND. And, among other things, said rules shall provide and declare, as nearly as the conditions of good administration will warrant, as follows:

First, for open, competitive examinations for testing the fitness of applicants for the public service now classified or to be classified hereunder. Such examinations shall be practical in their character, and so far as may be shall relate to those matters which will fairly test the relative capacity and fitness of the persons examined to discharge the duties of the service into which they seek to be appointed.

Second, that all the offices, places, and employments so arranged or to be arranged in classes shall be filled by selections according to grade from among those graded highest as the results of such competitive examinations.

Third, appointments to the public service aforesaid in the de-

partments at Washington shall be apportioned among the several States and Territories and the District of Columbia upon the basis of population as ascertained at the last preceding census. Every application for an examination shall contain, among other things, a statement, under oath, setting forth his or her actual bona fide residence at the time of making the application, as well as how long he or she has been a resident of such place.

Fourth, that there shall be a period of probation before any absolute appointment or employment aforesaid.

Fifth, that no person in the public service is for that reason under any obligations to contribute to any political fund, or to render any political service, and that he will not be removed or otherwise prejudiced for refusing to do so.

Sixth, that no person in said service has any right to use his official authority or influence to coerce the political action of any person or body.

Seventh, there shall be non-competitive examinations in all proper cases before the commission, when competent persons do not compete, after notice has been given of the existence of the vacancy, under such rules as may be prescribed by the commissioners as to the manner of giving notice.

Eighth, that notice shall be given in writing by the appointing power to said commission of the persons selected for appointment or employment from among those who have been examined, of the place of residence of such persons, of the rejection of any such persons after probation, of transfers, resignations, and removals, and of the date thereof, and a record of the same shall be kept by said commission. And any necessary exceptions from said eight fundamental provisions of the rules shall be set forth in connection with such rules, and the reasons therefor shall be stated in the annual reports of the commission.

THIRD. Said commission shall, subject to the rules that may be made by the President, make regulations for, and have control of, such examinations, and, through its members or the examiners, it shall supervise and preserve the records of the same; and said commission shall keep minutes of its own proceedings.

FOURTH. Said commission may make investigations concerning the facts, and may report upon all matters touching the enforcement and effects of said rules and regulations, and concerning the action of any examiner or board of examiners hereinafter provided for, and its own subordinates, and those in the public service, in respect to the execution of this act.

FIFTH. Said commission shall make an annual report to the President for transmission to Congress, showing its own action, the rules and regulations and the exceptions thereto in force, the practical effects thereof, and any suggestions it may approve for the more effectual accomplishment of the purposes of this act.

SEC. 3. That said commission is authorized to employ a chief examiner, a part of whose duty it shall be, under its direction, to act with the examining boards, so far as practicable, whether at Washington or elsewhere, and to secure accuracy, uniformity, and justice in all their proceedings, which shall be at all times open to him. . . . The commission shall have a secretary, to be appointed by the President. . . . It may, when necessary, employ a stenographer, and a messenger. . . . The commission shall, at Washington, and in one or more places in each State and Territory where examinations are to take place, designate and select a suitable number of persons, not less than three, in the official service of the United States, residing in said State or Territory, after consulting the head of the department or office in which such persons serve, to be members of boards of examiners, and may at any time substitute any other person in said service living in such State or Territory in the place of any one so selected. Such boards of examiners shall be so located as to make it reasonably convenient and inexpensive for applicants to attend before them; and where there are persons to be examined in any State or Territory, examinations shall be held therein at least twice in each year. It shall be the duty of the collector, postmaster, and other officers of the United States, at any place outside of the District of Columbia where examinations are directed by the President or by said board to be held, to allow

the reasonable use of the public buildings for holding such examinations, and in all proper ways to facilitate the same.

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SEC. 5. That any said commissioner, examiner, copyist, or messenger, or any person in the public service who shall willfully and corruptly, by himself or in co-operation with one or more other persons, defeat, deceive, or obstruct any person in respect of his or her right of examination according to any such rules or regulations, or who shall willfully, corruptly, and falsely mark, grade, estimate, or report upon the examination or proper standing of any person examined hereunder, or aid in so doing, or who shall willfully and corruptly make any false representations concerning the same or concerning the person examined, or who shall willfully and corruptly furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person so examined, or to be examined, being appointed, employed, or promoted, shall for each such offense be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than one hundred dollars, nor more than one thousand dollars, or by imprisonment not less than ten days, nor more than one year, or by both such fine and imprisonment.

SEC. 6. That within sixty days after the passage of this act it shall be the duty of the Secretary of the Treasury, in as near conformity as may be to the classification of certain clerks now existing under the one hundred and sixty-third section of the Revised Statutes, to arrange in classes the several clerks and persons employed by the collector, naval officer, surveyor, and appraisers, or either of them, or being in the public service, at their respective offices in each customs district where the whole number of said clerks and persons shall be all together as many as fifty. And thereafter, from time to time, on the direction of the President, said Secretary shall make the like classification or arrangement of clerks and persons so employed, in connection with any said office or offices, in any other customs district. And, upon like request, and for the purposes of this act, said Secretary shall arrange in

one or more of said classes, or of existing classes, any other clerks, agents, or persons employed under his department in any said district not now classified; and every such arrangement and classification upon being made shall be reported to the President.

Second. Within said sixty days it shall be the duty of the Postmaster-General, in general conformity to said one hundred and sixty-third section, to separately arrange in classes the several clerks and persons employed, or in the public service, at each post-office, or under any postmaster of the United States, where the whole number of said clerks and persons shall together amount to as many as fifty. And thereafter, from time to time, on the direction of the President, it shall be the duty of the Postmaster-General to arrange in like classes the clerks and persons so employed in the postal service in connection with any other post-office; and every such arrangement and classification upon being made shall be reported to the President.

Third. That from time to time said Secretary, the Postmaster-General, and each of the heads of departments mentioned in the one hundred and fifty-eighth section of the Revised Statutes, and each head of an office, shall, on the direction of the President, and for facilitating the execution of this act, respectively revise any then existing classification or arrangement of those in their respective departments and offices, and shall, for the purposes of the examination herein provided for, include in one or more of such classes, so far as practicable, subordinate places, clerks, and officers in the public service pertaining to their respective departments not before classified for examination.

Sec. 7. That after the expiration of six months from the passage of this act no officer or clerk shall be appointed, and no person shall be employed to enter or be promoted in either of the said classes now existing, or that may be arranged hereunder pursuant to said rules, until he has passed an examination, or is shown to be specially exempted from such examination in conformity herewith. But nothing herein contained shall be construed to take from those honorably discharged from the military or naval service any preference conferred by the seventeen hundred and

fifty-fourth section of the Revised Statutes, nor to take from the President any authority not inconsistent with this act conferred by the seventeen hundred and fifty-third section of said statutes; nor shall any officer not in the executive branch of the government, or any person merely employed as a laborer or workman, be required to be classified hereunder; nor, unless by direction of the Senate, shall any person who has been nominated for confirmation by the Senate be required to be classified or to pass an examination.

SEC. 8. That no person habitually using intoxicating beverages to excess shall be appointed to, or retained in, any office, appointment, or employment to which the provisions of this act are applicable.

SEC. 9. That whenever there are already two or more members of a family in the public service in the grades covered by this act, no other member of such family shall be eligible to appointment to any of said grades.

SEC. 10. That no recommendation of any person who shall apply for office or place under the provisions of this act which may be given by any Senator or member of the House of Representatives, except as to the character or residence of the applicant, shall be received or considered by any person concerned in making any examination or appointment under this act.

SEC. 11. That no Senator, or Representative, or Territorial Delegate of the Congress, or Senator, Representative, or Delegate elect, or any officer or employee of either of said houses, and no executive, judicial, military, or naval officer of the United States, and no clerk or employee of any department, branch or bureau of the executive, judicial, or military or naval service of the United States, shall, directly or indirectly, solicit or receive, or be in any manner concerned in soliciting or receiving, any assessment, subscription, or contribution for any political purpose whatever, from any officer, clerk, or employee of the United States, or any department, branch, or bureau thereof, or from any person receiving any salary or compensation from moneys derived from the Treasury of the United States.

SEC. 12. That no person shall, in any room or building occupied in the discharge of official duties by any officer or employee of the United States mentioned in this act, or in any navy-yard, fort, or arsenal, solicit in any manner whatever, or receive any contribution of money or any other thing of value for any political purpose whatever.

SEC. 13. No officer or employee of the United States mentioned in this act shall discharge, or promote, or degrade, or in [any] manner change the official rank or compensation of any other officer or employee, or promise or threaten so to do, for giving or withholding or neglecting to make any contribution of money or other valuable thing for any political purpose.

SEC. 14. That no officer, clerk, or other person in the service of the United States shall, directly or indirectly, give or hand over to any other officer, clerk, or person in the service of the United States, or to any Senator or Member of the House of Representatives, or Territorial Delegate, any money or other valuable thing on account of or to be applied to the promotion of any political object whatever.

SEC. 15. That any person who shall be guilty of violating any provision of the four foregoing sections shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine not exceeding five thousand dollars, or by imprisonment for a term not exceeding three years, or by such fine and imprisonment both, in the discretion of the court.

APPROVED, January sixteenth, 1883.

No. 110. Contract Labor Act

February 26, 1885

A BILL to prohibit the entrance into the United States of contract laborers was introduced in the House, January 8, 1884, by Martin A. Foran of Ohio, and referred to the Committee on Labor. February 23 the bill was reported with amendments. The bill was not taken up until June 19; the same day it passed the House without a division. June 28 the bill was reported with-

out amendment in the Senate, but the session closed without further action. February 13, 1885, consideration of the bill was resumed, and on the 18th the bill with various amendments passed the Senate, the vote being 50 to 9. On the 23d the House concurred in the Senate amendments. An amendatory act of February 23, 1887, authorized the Secretary of the Treasury to make contracts with State officers to take charge of immigration at local ports, and required prohibited persons to be sent back at the expense of the owners of the vessels in which they came. The deficiencies appropriation act of October 19, 1888, amended the act of February 23, 1887, so as "to authorize the Secretary of the Treasury, in case he shall be satisfied that an immigrant has been allowed to land contrary to the prohibition of that law, to cause such immigrant within the period of one year after landing or entry, to be taken into custody and returned to the country from whence he came, at the expense of the owner of the importing vessel, or, if he entered from an adjoining country, at the expense of the person previously contracting for the services."

REFERENCES. — *Text* in *U.S. Statutes at Large*, XXIII, 332, 333. For the proceedings see the *House and Senate Journals*, 48th Cong., 1st and 2d Sess., and the *Cong. Record*. The text of the amended House bill is in the *Record*, June 19. The report submitted February 23 is *House Report 444;* the report of June 28 is *Senate Report 820*. See also *House Exec. Doc. 396* and *House Misc. Doc. 572*, 50th Cong., 1st Sess.; *Senate Report 787*, 52d Cong., 1st Sess.

An act to prohibit the importation and migration of foreigners and aliens under contract or agreement to perform labor in the United States, its Territories, and the District of Columbia.

Be it enacted . . ., That from and after the passage of this act it shall be unlawful for any person, company, partnership, or corporation, in any manner whatsoever, to prepay the transportation, or in any way assist or encourage the importation or migration of any alien or aliens, any foreigner or foreigners, into the United States, its Territories, or the District of Columbia, under contract or agreement, parol or special, express or implied, made previous to the importation or migration of such alien or aliens, foreigner or foreigners, to perform labor or service of any kind in the United States, its Territories, or the District of Columbia.

SEC. 2. That all contracts or agreements, express or implied, parol or special, which may hereafter be made by and between any person, company, partnership, or corporation, and any

foreigner or foreigners, alien or aliens, to perform labor or service or having reference to the performance of labor or service by any person in the United States, its Territories, or the District of Columbia previous to the migration or importation of the person or persons whose labor or service is contracted for into the United States, shall be utterly void and of no effect.

SEC. 3. That for every violation of any of the provisions of section one of this act the person, partnership, company, or corporation violating the same, by knowingly assisting, encouraging or soliciting the migration or importation of any alien or aliens, foreigner or foreigners, into the United States, its Territories, or the District of Columbia, to perform labor or service of any kind under contract or agreement, express or implied, parol or special, with such alien or aliens, foreigner or foreigners, previous to becoming residents or citizens of the United States, shall forfeit and pay for every such offence the sum of one thousand dollars, which may be sued for and recovered by the United States or by any person who shall first bring his action therefor including any such alien or foreigner who may be a party to any such contract or agreement, as debts of like amount are now recovered in the circuit courts of the United States; the proceeds to be paid into the Treasury of the United States; and separate suits may be brought for each alien or foreigner being a party to such contract or agreement aforesaid. And it shall be the duty of the district attorney of the proper district to prosecute every such suit at the expense of the United States.

SEC. 4. [Master of vessel, knowingly bringing such emigrant laborer, guilty of misdemeanor, punishable by fine or imprisonment.]

SEC. 5. That nothing in this act shall be so construed as to prevent any citizen or subject of any foreign country temporarily residing in the United States, either in private or official capacity, from engaging, under contract or otherwise, persons not residents or citizens of the United States to act as private secretaries, servants, or domestics for such foreigner temporarily residing in the United States as aforesaid; nor shall this act be so construed as

to prevent any person, or persons, partnership, or corporation from engaging, under contract or agreement, skilled workmen in foreign countries to perform labor in the United States in or upon any new industry not at present established in the United States: *Provided*, That skilled labor for that purpose cannot be otherwise obtained; nor shall the provisions of this act apply to professional actors, artists, lecturers, or singers, nor to persons employed strictly as personal or domestic servants: *Provided*, That nothing in this act shall be construed as prohibiting any individual from assisting any member of his family or any relative or personal friend, to migrate from any foreign country to the United States, for the purpose of settlement here.[1]

SEC. 6. That all laws or parts of laws conflicting herewith be, and the same are hereby, repealed.

APPROVED, February 26, 1885.

No. 111. Presidential Succession Act

January 19, 1886

IN his annual message of December 6, 1881, President Arthur recommended further provision of law for the regulation of the presidential succession. A bill for the purpose was introduced in the Senate, June 16, 1882, by George F. Hoar of Massachusetts, but no further action was taken. A similar bill passed the Senate January 25, 1884, but was not finally acted on in the House. Another bill, introduced by Senator Hoar December 8, 1885, was reported by the Committee on Privileges and Elections on the 14th, and on the 17th passed the Senate. The bill was reported without amendment in the House, January 13, 1886, and on the 15th passed, the final vote being 186 to 76, 62 not voting.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XXIV, 1, 2. For the proceedings see the *House and Senate Journals*, 49th Cong., 1st Sess., and the *Cong. Record*. The report submitted January 13 is *House Report 26*.

[1] See act of March 3, 1891, chap. 551, section 5.

An act to provide for the performance of the duties of the office of President in case of the removal, death, resignation, or inability both of the President and Vice-President.

Be it enacted . . ., That in case of removal, death, resignation, or inability of both the President and Vice-President of the United States, the Secretary of State, or if there be none, or in case of his removal, death, resignation, or inability, then the Secretary of the Treasury, or if there be none, or in case of his removal, death, resignation, or inability, then the Secretary of War, or if there be none, or in case of his removal, death, resignation, or inability, then the Attorney-General, or if there be none, or in case of his removal, death, resignation, or inability, then the Postmaster-General, or if there be none, or in case of his removal, death, resignation, or inability, then the Secretary of the Navy, or if there be none, or in case of his removal, death, resignation, or inability, then the Secretary of the Interior, shall act as President until the disability of the President or Vice-President is removed or a President shall be elected: *Provided*, That whenever the powers and duties of the office of President of the United States shall devolve upon any of the persons named herein, if Congress be not then in session, or if it would not meet in accordance with law within twenty days thereafter, it shall be the duty of the person upon whom said powers and duties shall devolve to issue a proclamation convening Congress in extraordinary session, giving twenty days' notice of the time of meeting.

SEC. 2. That the preceding section shall only be held to describe and apply to such officers as shall have been appointed by the advice and consent of the Senate to the offices therein named, and such as are eligible to the office of President under the Constitution, and not under impeachment by the House of Representatives of the United States at the time the powers and duties of the office shall devolve upon them respectively.

SEC. 3. [Sections 146–150 of the Revised Statutes repealed.[1]]

APPROVED, January 19, 1886.

[1] These sections devolve the succession upon the President of the Senate and the Speaker of the House.

No. 112. Act prohibiting Special Laws in the Territories

July 30, 1886

A BILL to prohibit the passage of special or local laws in the Territories and to limit territorial indebtedness was introduced in the House, February 1, 1886, by William M. Springer of Illinois. It was stated that the provisions of the bill were taken *verbatim* from the constitution of Illinois. The bill was reported with a verbal amendment April 6, and passed the House May 1. The Senate made numerous changes, and passed the amended bill June 17. The House refused to agree to all the Senate amendments, and a conference committee settled the final form of the bill. An amendatory act of July 30, 1886, authorized municipal corporations in the Territories to issue bonds "for sanitary and health purposes, the construction of sewers, waterworks, and the improvement of streets," provided such issue were voted by the taxpayers of the municipality at an election called for the purpose.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XXIV, 170, 171. For the proceedings see the *House and Senate Journals*, 49th Cong., 1st Sess., and the *Cong. Record*. The text of the House bill is in the *Record*, May 1; the amendments reported in the Senate are in *ibid.*, June 17. See also *Senate Report 1327*.

An act to prohibit the passage of local or special laws in the Territories of the United States, to limit Territorial indebtedness, and for other purposes.

Be it enacted . . ., That the legislatures of the Territories of the United States now or hereafter to be organized shall not pass local or special laws in any of the following enumerated cases, that is to say:

Granting divorces.

Changing the names of persons or places.

Laying out, opening, altering, and working roads or highways.

Vacating roads, town-plats, streets, alleys, and public grounds.

Locating or changing county seats.

Regulating county and township affairs.

Regulating the practice in courts of justice.

Regulating the jurisdiction and duties of justices of the peace, police magistrates, and constables.

Providing for changes of venue in civil and criminal cases.

Incorporating cities, towns, or villages, or changing or amending the charter of any town, city, or village.

For the punishment of crimes or misdemeanors.

For the assessment and collection of taxes for Territorial, county, township, or road purposes.

Summoning and impaneling grand or petit jurors.

Providing for the management of common schools.

Regulating the rate of interest on money.

The opening and conducting of any election or designating the place of voting.

The sale or mortgage of real estate belonging to minors or others under disability.

The protection of game or fish.

Chartering or licensing ferries or toll bridges.

Remitting fines, penalties, or forfeitures.

Creating, increasing, or decreasing fees, percentage, or allowances of public officers during the term for which said officers are elected or appointed.

Changing the law of descent.

Granting to any corporation, association, or individual the right to lay down railroad tracks, or amending existing charters for such purpose.

Granting to any corporation, association, or individual any special or exclusive privilege, immunity, or franchise whatever.

In all other cases where a general law can be made applicable, no special law shall be enacted in any of the Territories of the United States by the Territorial legislatures thereof.

SEC. 2. That no Territory of the United States now or hereafter to be organized, or any political or municipal corporation or subdivision of any such Territory, shall hereafter make any subscription to the capital stock of any incorporated company, or company or association having corporate powers, or in any manner loan its credit to or use it for the benefit of any such company or association, or borrow any money for the use of any such company or association.

SEC. 3. That no law of any Territorial legislature shall authorize any debt to be contracted by or on behalf of such Territory except in the following cases: To meet a casual deficit in the revenues, to pay the interest upon the Territorial debt, to suppress insurrections, or to provide for the public defense, except that in addition to any indebtedness created for such purposes, the legislature may authorize a loan for the erection of penal, charitable or educational institutions for such Territory, if the total indebtedness of the Territory is not thereby made to exceed one per centum upon the assessed value of the taxable property in such Territory as shown by the last general assessment for taxation. And nothing in this act shall be construed to prohibit the refunding of any existing indebtedness of such Territory or of any political or municipal corporation, county, or other sub-division therein.

SEC. 4. That no political or municipal corporation, county, or other sub-division in any of the Territories of the United States shall ever become indebted in any manner or for any purpose to any amount in the aggregate, including existing indebtedness, exceeding four per centum on the value of the taxable property within such corporation, county, or sub-division, to be ascertained by the last assessment for Territorial and county taxes previous to the incurring of such indebtedness; and all bonds or obligations in excess of such amount given by such corporation shall be void: That nothing in this act contained shall be so construed as to affect the validity of any act of any Territorial legislature heretofore enacted, or of any obligations existing or contracted thereunder, nor to preclude the issuing of bonds already contracted for in pursuance of express provisions of law; nor to prevent any Territorial legislature from legalizing the acts of any county, municipal corporation, or sub-division of any territory as to any bonds heretofore issued or contracted to be issued.

SEC. 5. That section eighteen hundred and eighty-nine, title twenty-three, of the Revised Statutes of the United States be amended to read as follows:

"The legislative assemblies of the several Territories shall not grant private charters or special privileges, but they may, by gen-

eral incorporation acts, permit persons to associate themselves together as bodies corporate for mining, manufacturing, and other industrial pursuits, and for conducting the business of insurance, banks of discount and deposit (but not of issue) loan, trust, and guarantee associations, and for the construction or operation of rail-roads, wagon-roads, irrigating ditches, and the colonization and improvement of lands in connection therewith, or for colleges, semenaries, churches, libraries, or any other benevolent, charitable, or scientific association."

SEC. 6. That nothing in this act contained shall be construed to abridge the power of Congress to annul any law passed by a Territorial legislature, or to modify any existing law of Congress requiring in any case that the laws of any Territory shall be submitted to Congress.

SEC. 7. That all acts and parts of acts hereafter passed by any Territorial legislature in conflict with the provisions of this act shall be null and void.

APPROVED, July 30, 1886.

No. 113. Electoral Count Act

February 3, 1887

A BILL to regulate the electoral count was introduced in the Senate, December 8, 1885, by Edmunds of Vermont, and referred to the Committee on Privileges and Elections. The bill was reported on the 17th without amendment, and February 2, after debate, was recommitted. A substitute was reported on the 25th, and March 17 passed the Senate. The bill with amendments was reported in the House April 15, but the session closed without further action. December 9 the bill was taken up, and, with various amendments, passed. A conference committee settled the final form of the bill.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XXIV, 373–375. For the proceedings see the *House and Senate Journals*, 49th Cong., and the *Cong. Record*. The text of the Senate bill is in the *Record*, March 17; the amendments reported in the House are in *ibid.*, December 9, 1886. See also *House Report 1638*, 49th Cong., 1st Sess.

An act to fix the day for the meeting of the electors of President and Vice-President, and to provide for and regulate the counting of the votes for President and Vice-President, and the decision of questions arising thereon.

Be it enacted . . ., That the electors of each State shall meet and give their votes on the second Monday in January next following their appointment, at such place in each State as the legislature of such State shall direct.

SEC. 2. That if any State shall have provided, by laws enacted prior to the day fixed for the appointment of the electors, for its final determination of any controversy or contest concerning the appointment of all or any of the electors of such State, by judicial or other methods or procedures, and such determination shall have been made at least six days before the time fixed for the meeting of the electors, such determination made pursuant to such law so existing on said day, and made at least six days prior to the said time of meeting of the electors, shall be conclusive, and shall govern in the counting of the electoral votes as provided in the Constitution, and as hereinafter regulated, so far as the ascertainment of the electors appointed by such State is concerned.

SEC. 3. That it shall be the duty of the executive of each State, as soon as practicable after the conclusion of the appointment of electors in such State, by the final ascertainment under and in pursuance of the laws of such State providing for such ascertainment, to communicate, under the seal of the State, to the Secretary of State of the United States, a certificate of such ascertainment of the electors appointed, setting forth the names of such electors and the canvass or other ascertainment under the laws of such State of the number of votes given or cast for each person for whose appointment any and all votes have been given or cast; and it shall also thereupon be the duty of the executive of each State to deliver to the electors of such State, on or before the day on which they are required by the preceding section to meet, the same certificate, in triplicate, under the seal of the State; and such certificate shall be inclosed and transmitted by the electors at the same time and in the same manner as is provided by law for transmitting by such electors to the seat of

Government the lists of all persons voted for as President and of all persons voted for as Vice-President;[1] and section one hundred and thirty-six of the Revised Statutes[2] is hereby repealed; and if there shall have been any final determination in a State of a controversy or contest as provided for in section two of this act, it shall be the duty of the executive of such State, as soon as practicable after such determination, to communicate, under the seal of the State, to the Secretary of State of the United States, a certificate of such determination, in form and manner as the same shall have been made; and the Secretary of State of the United States, as soon as practicable after the receipt at the State Department of each of the certificates hereinbefore directed to be transmitted to the Secretary of State, shall publish, in such public newspaper as he shall designate, such certificates in full; and at the first meeting of Congress thereafter he shall transmit to the two Houses of Congress copies in full of each and every such certificate so received theretofore at the State Department.

SEC. 4. That Congress shall be in session on the second Wednesday in February succeeding every meeting of the electors. The Senate and House of Representatives shall meet in the Hall of the House of Representatives at the hour of one o'clock in the afternoon on that day, and the President of the Senate shall be their presiding officer. Two tellers shall be previously appointed on the part of the Senate and two on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted

[1] By an act of October 19, 1888, certificates and lists of votes for President and Vice-President were required to be forwarded "to the President of the Senate forthwith after the second Monday in January on which the electors shall give their votes."

[2] "It shall be the duty of the executive of each State to cause three lists of the names of the electors of such State to be made and certified, and to be delivered to the electors on or before the day on which they are required . . . to meet" (act of March 1, 1792, sec. 3).

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upon in the alphabetical order of the States, beginning with the letter A; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in the manner and according to the rules in this act provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, elected President and Vice-President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses. Upon such reading of any such certificate or paper, the President of the Senate shall call for objections, if any. Every objection shall be made in writing, and shall state clearly and concisely, and without argument, the ground thereof, and shall be signed by at least one Senator and one Member of the House of Representatives before the same shall be received. When all objections so made to any vote or paper from a State shall have been received and read, the Senate shall thereupon withdraw, and such objections shall be submitted to the Senate for its decision; and the Speaker of the House of Representatives shall, in like manner, submit such objections to the House of Representatives for its decision; and no electoral vote or votes from any State which shall have been regularly given by electors whose appointment has been lawfully certified to according to section three of this act from which but one return has been received shall be rejected, but the two Houses concurrently may reject the vote or votes when they agree that such vote or votes have not been so regularly given by electors whose appointment has been so certified. If more than one return or paper purporting to be a return from a State shall have been received by the President of the Senate, those votes, and those only, shall be counted which shall have been regularly given by the electors who are shown by the determination mentioned in section two of this act to have been appointed, if the determination in said section provided for shall have been made, or by such successors

or substitutes, in case of a vacancy in the board of electors so ascertained, as have been appointed to fill such vacancy in the mode provided by the laws of the State; but in case there shall arise the question which of two or more of such State authorities determining what electors have been appointed, as mentioned in section two of this act, is the lawful tribunal of such State, the votes regularly given of those electors, and those only, of such State shall be counted whose title as electors the two Houses, acting separately, shall concurrently decide is supported by the decision of such State so authorized by its laws; and in such case of more than one return or paper purporting to be a return from a State, if there shall have been no such determination of the question in the State aforesaid, then those votes, and those only, shall be counted which the two Houses shall concurrently decide were cast by lawful electors appointed in accordance with the laws of the State, unless the two Houses, acting separately, shall concurrently decide such votes not to be the lawful votes of the legally appointed electors of such State. But if the two Houses shall disagree in respect of the counting of such votes, then, and in that case, the votes of the electors whose appointment shall have been certified by the Executive of the State, under the seal thereof, shall be counted. When the two Houses have voted, they shall immediately again meet, and the presiding officer shall then announce the decision of the questions submitted. No votes or papers from any other State shall be acted upon until the objections previously made to the votes or papers from any State shall have been finally disposed of.

SEC. 5. That while the two Houses shall be in the meeting as provided in this act the President of the Senate shall have power to preserve order; and no debate shall be allowed and no question shall be put by the presiding officer except to either House on a motion to withdraw.

SEC. 6. That when the two Houses separate to decide upon an objection that may have been made to the counting of any electoral vote or votes from any State, or other question arising in the matter, each Senator and Representative may speak to

such objection or question five minutes, and not more than once; but after such debate shall have lasted two hours it shall be the duty of the presiding officer of each House to put the main question without further debate.

SEC. 7. That at such joint meeting of the two Houses seats shall be provided as follows: For the President of the Senate, the Speaker's chair; for the Speaker, immediately upon his left; the Senators, in the body of the Hall upon the right of the presiding officer; for the Representatives, in the body of the Hall not provided for the Senators; for the tellers, Secretary of the Senate, and Clerk of the House of Representatives, at the Clerk's desk; for the other officers of the two Houses, in front of the Clerk's desk and upon each side of the Speaker's platform. Such joint meeting shall not be dissolved until the count of electoral votes shall be completed and the result declared; and no recess shall be taken unless a question shall have arisen in regard to counting any such votes, or otherwise under this act, in which case it shall be competent for either House, acting separately, in the manner hereinbefore provided, to direct a recess of such House not beyond the next calendar day, Sunday excepted, at the hour of ten o'clock in the forenoon. But if the counting of the electoral votes and the declaration of the result shall not have been completed before the fifth calendar day next after such first meeting of the two Houses, no further or other recess shall be taken by either House.

APPROVED, February 3, 1887.

No. 114. Interstate Commerce Act

February 4, 1887

A BILL to regulate interstate commerce was reported in the Senate, January 18, 1886, by Shelby M. Cullom of Illinois, from the select committee appointed "to investigate and report on the subject of regulating the trans-

portation of freights and passengers between the several States by railroads and water routes." Accompanying the bill was a voluminous report. The bill was recommitted, and a substitute reported February 16. The bill was taken up April 14, and formed one of the principal subjects of debate until May 12, when, with numerous amendments, the bill passed, the final vote being 47 to 4, 25 not voting. A substitute was reported in the House May 22. The bill was taken up July 21, and on the 30th the amended substitute passed the House by a vote of 192 to 41, 89 not voting. The session closed without further action beyond the appointment of a conference committee. The report of the committee was submitted December 15, and was accepted by the Senate, January 14, 1887, by a vote of 43 to 15, and by the House, January 21, by a vote of 219 to 41, 58 not voting. Extensive amendments to the act were made by an act of March 2, 1889. The scope of the commission, and its authority to compel testimony, were further defined by an act of February 10, 1891. An act of February 11, 1893, provided that no person should be excused from testifying before the commission, or from producing papers, etc., on the ground that such evidence would tend to incriminate him; but such witnesses were exempted from prosecution or penalty on account of acts concerning which they were required to give evidence.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XXIV, 379–387. For the proceedings see the *House and Senate Journals*, 49th Cong., 1st and 2d Sess., and the *Cong. Record*. The text of the House bill is in the *Record*, July 30. Cullom's report of January 18, 1886, is *Senate Report 46*, 49th Cong., 1st Sess. The annual reports of the Interstate Commerce Commission, and the debates in Congress on the amendatory acts, are the principal authorities for the workings of the statute. For decisions under the act to 1897 see Gould and Tucker, *Notes on the Revised Statutes*, II, 618–621. On ticket brokerage see *Senate Doc. 128* and *House Report 232*, 55th Cong., 2d Sess. An act of June 1, 1898, provided for the arbitration of disputes between railroads and their employees; on this see *Senate Report 591* and *House Report 454*, 55th Cong., 2d Sess.

Begun [illegible]

An act to regulate commerce.

Be it enacted . . ., That the provisions of this act shall apply to any common carrier or carriers engaged in the transportation of passengers or property wholly by railroad, or partly by railroad and partly by water when both are used, under a common control, management, or arrangement, for a continuous carriage or shipment, from one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United

States, or the District of Columbia, or from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States, and also to the transportation in like manner of property shipped from any place in the United States to a foreign country and carried from such place to a port of transshipment, or shipped from a foreign country to any place in the United States and carried to such place from a port of entry either in the United States or an adjacent foreign country: *Provided, however,* That the provisions of this act shall not apply to the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property, wholly within one State, and not shipped to or from a foreign country from or to any State or Territory as aforesaid.

The term "railroad" as used in this act shall include all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any corporation operating a railroad, whether owned or operated under a contract, agreement, or lease; and the term "transportation" shall include all instrumentalities of shipment or carriage.

All charges made for any service rendered or to be rendered in the transportation of passengers or property as aforesaid, or in connection therewith, or for the receiving, delivering, storage, or handling of such property, shall be reasonable and just; and every unjust and unreasonable charge for such service is prohibited and declared to be unlawful.

SEC. 2. That if any common carrier subject to the provisions of this act shall, directly or indirectly, by any special rate, rebate, drawback, or other device, charge, demand, collect, or receive from any person or persons a greater or less compensation for any service rendered, or to be rendered, in the transportation of passengers or property, subject to the provisions of this act, than it charges, demands, collects, or receives from any other person or persons for doing for him or them a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, such common

carrier shall be deemed guilty of unjust discrimination, which is hereby prohibited and declared to be unlawful.[1]

SEC. 3. That it shall be unlawful for any common carrier subject to the provisions of this act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic, in any respect whatsoever, or to subject any particular person, company, firm, corporation, or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Every common carrier subject to the provisions of this act shall, according to their respective powers, afford all reasonable, proper, and equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding, and delivering of passengers and property to and from their several lines and those connecting therewith, and shall not discriminate in their rates and charges between such connecting lines; but this shall not be construed as requiring any such common carrier to give the use of its tracks or terminal facilities to another carrier engaged in like business.

SEC. 4. That it shall be unlawful for any common carrier subject to the provisions of this act to charge or receive any greater compensation in the aggregate for the transportation of passengers or of like kind of property, under substantially similar circumstances and conditions, for a shorter than for a longer distance over the same line, in the same direction, the shorter being included within the longer distance; but this shall not be construed as authorizing any common carrier within the terms of this act to charge and receive as great compensation for a shorter as for a longer distance: *Provided, however*, That upon application to the Commission appointed under the provisions of this act, such common carrier may, in special cases, after investigation by the Commission, be authorized to charge less for longer than for shorter distances for the transportation of passengers or property; and

[1] Amended by act of February 8, 1895, to allow the issue of interchangeable mileage tickets.

the Commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section of this act.

SEC. 5. That it shall be unlawful for any common carrier subject to the provisions of this act to enter into any contract, agreement, or combination with any other common carrier or carriers for the pooling of freights of different and competing railroads, or to divide between them the aggregate or net proceeds of the earnings of such railroads, or any portion thereof; and in any case of an agreement for the pooling of freights as aforesaid, each day of its continuance shall be deemed a separate offense.

SEC. 6. That every common carrier subject to the provisions of this act shall print and keep for public inspection schedules showing the rates and fares and charges for the transportation of passengers and property which any such common carrier has established and which are in force at the time upon its railroad, as defined by the first section of this act. The schedules printed as aforesaid by any such common carrier shall plainly state the places upon its railroad between which property and passengers will be carried, and shall contain the classification of freight in force upon such railroad, and shall also state separately the terminal charges and any rules or regulations which in any wise change, affect, or determine any part or the aggregate of such aforesaid rates and fares and charges. Such schedules shall be plainly printed in large type, of at least the size of ordinary pica, and copies for the use of the public shall be kept in every depot or station upon any such railroad, in such places and in such form that they can be conveniently inspected.[1]

Any common carrier subject to the provisions of this act receiving freight in the United States to be carried through a foreign country to any place in the United States shall also in like man-

[1] By act of March 2, 1889, sec. 1, the last sentence was amended to read: "Such schedules shall be plainly printed in large type, and copies for the use of the public shall be posted in two public and conspicuous places, in every depot, station, or office of such carrier where passengers or freight, respectively, are received for transportation, in such form that they shall be accessible to the public and can be conveniently inspected."

ner print and keep for public inspection, at every depot where such freight is received for shipment, schedules showing the through rates established and charged by such common carrier to all points in the United States beyond the foreign country to which it accepts freight for shipment; and any freight shipped from the United States through a foreign country into the United States, the through rate on which shall not have been made public as required by this act, shall, before it is admitted into the United States from said foreign country, be subject to customs duties as if said freight were of foreign production; and any law in conflict with this section is hereby repealed.

No advance shall be made in the rates, fares, and charges which have been established and published as aforesaid by any common carrier in compliance with the requirements of this section, except after ten days' public notice, which shall plainly state the changes proposed to be made in the schedule then in force, and the time when the increased rates, fares, or charges will go into effect; and the proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept for public inspection. Reductions in such published rates, fares, or charges may be made without previous public notice; but whenever any such reduction is made, notice of the same shall immediately be publicly posted and the changes made shall immediately be made public by printing new schedules, or shall immediately be plainly indicated upon the schedules at the time in force and kept for public inspection.[1]

And when any such common carrier shall have established and published its rates, fares, and charges in compliance with the provisions of this section, it shall be unlawful for such common carrier to charge, demand, collect, or receive from any person or persons a greater or less compensation for the transportation of passengers or property, or for any services in connection therewith, than is

[1] Amended by act of March 2, 1889, sec. 1, to read: "Reductions in such published rates, fares, or charges shall only be made after three days' previous public notice, to be given in the same manner that notice of an advance in rates must be given."

specified in such published schedule of rates, fares, and charges as may at the time be in force.

Every common carrier subject to the provisions of this act shall file with the Commission hereinafter provided for copies of its schedules of rates, fares, and charges which have been established and published in compliance with the requirements of this section, and shall promptly notify said Commission of all changes made in the same. Every such common carrier shall also file with said Commission copies of all contracts, agreements, or arrangements with other common carriers in relation to any traffic affected by the provisions of this act to which it may be a party. And in cases where passengers and freight pass over continuous lines or routes operated by more than one common carrier, and the several common carriers operating such lines or routes establish joint tariffs of rates or fares or charges for such continuous lines or routes, copies of such joint tariffs shall also, in like manner, be filed with said Commission. Such joint rates, fares, and charges on such continuous lines so filed as aforesaid shall be made public by such common carriers when directed by said Commission, in so far as may, in the judgment of the Commission, be deemed practicable; and said Commission shall from time to time prescribe the measure of publicity which shall be given to such rates, fares, and charges, or to such part of them as it may deem it practicable for such common carriers to publish, and the places in which they shall be published;[1] but no common carrier party to any such joint tariff shall be liable for the failure of any other common carrier party thereto to observe and adhere to the rates, fares, or charges thus made and published.[2]

[1] The remainder of the sentence is omitted in the amended form of the section contained in the act of March 2, 1889, sec. 1.

[2] The act of March 2, 1889, sec. 1, inserts between this paragraph and the next the following:

"No advance shall be made in joint rates, fares, and charges, shown upon joint tariffs, except after ten days' notice to the Commission, which shall plainly state the changes proposed to be made in the schedule then in force, and the time when the increased rates, fares, or charges will go into effect. No reduction shall be made in joint rates, fares, and charges, except after three days' notice, to be given to the Commission as is above provided in the case of an advance of joint rates. The

If any such common carrier shall neglect or refuse to file or publish its schedules or tariffs of rates, fares, and charges as provided in this section, or any part of the same, such common carrier shall, in addition to other penalties herein prescribed, be subject to a writ of mandamus, to be issued by any circuit court of the United States in the judicial district wherein the principal office of said common carrier is situated or wherein such offense may be committed, and if such common carrier be a foreign corporation, in the judicial circuit wherein such common carrier accepts traffic and has an agent to perform such service, to compel compliance with the aforesaid provisions of this section; and such writ shall issue in the name of the people of the United States, at the relation of the Commissioners appointed under the provisions of this act; and failure to comply with its requirements shall be punishable as and for a contempt; and the said Commissioners, as complainants, may also apply, in any such circuit court of the United States, for a writ of injunction against such common carrier, to restrain such common carrier from receiving or transporting property among the several States and Territories of the United States, or between the United States and adjacent foreign countries, or between ports of transshipment and of entry and the several States and Territories of the United States, as mentioned in the first section of this act, until such common carrier shall have complied with the aforesaid provisions of this section of this act.

Commission may make public such proposed advances, or such reductions, in such manner as may, in its judgment, be deemed practicable, and may prescribe from time to time the measure of publicity which common carriers shall give to advances or reductions in joint tariffs.

"It shall be unlawful for any common carrier, party to any joint tariff, to charge, demand, collect, or receive from any person or persons a greater or less compensation for the transportation of persons or property, or for any services in connection therewith, between any points as to which a joint rate, fare, or charge is named thereon than is specified in the schedule filed with the Commission in force at the time.

"The Commission may determine and prescribe the form in which the schedules required by this section to be kept open to public inspection shall be prepared and arranged, and may change the form from time to time as shall be found expedient."

SEC. 7. That it shall be unlawful for any common carrier subject to the provisions of this act to enter into any combination, contract, or agreement, expressed or implied, to prevent, by change of time schedule, carriage in different cars, or by other means or devices, the carriage of freights from being continuous from the place of shipment to the place of destination; and no break of bulk, stoppage, or interruption made by such common carrier shall prevent the carriage of freights from being and being treated as one continuous carriage from the place of shipment to the place of destination, unless such break, stoppage, or interruption was made in good faith for some necessary purpose, and without any intent to avoid or unnecessarily interrupt such continuous carriage or to evade any of the provisions of this act.

SEC. 8. That in case any common carrier subject to the provisions of this act shall do, cause to be done, or permit to be done any act, matter, or thing in this act prohibited or declared to be unlawful, or shall omit to do any act, matter, or thing in this act required to be done, such common carrier shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of any such violation of the provisions of this act, together with a reasonable counsel or attorney's fee, to be fixed by the court in every case of recovery, which attorney's fee shall be taxed and collected as part of the costs in the case.

SEC. 9. That any person or persons claiming to be damaged by any common carrier subject to the provisions of this act may either make complaint to the Commission as hereinafter provided for, or may bring suit in his or their own behalf for the recovery of the damages for which such common carrier may be liable under the provisions of this act, in any district or circuit court of the United States of competent jurisdiction; but such person or persons shall not have the right to pursue both of said remedies, and must in each case elect which one of the two methods of procedure herein provided for he or they will adopt. In any such action brought for the recovery of damages the court before which the same shall be pending may compel any director, officer, receiver, trustee, or agent of the corporation or company defendant in

such suit to attend, appear, and testify in such case, and may compel the production of the books and papers of such corporation or company party to any such suit; the claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding.

SEC. 10. That any common carrier subject to the provisions of this act, or, whenever such common carrier is a corporation, any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by such corporation, who, alone or with any other corporation, company, person, or party, shall willfully do or cause to be done, or shall willingly suffer or permit to be done, any act, matter, or thing in this act prohibited or declared to be unlawful, or who shall aid or abet therein, or who shall willfully omit or fail to do any act, matter, or thing in this act required to be done, or shall cause or willingly suffer or permit any act, matter, or thing so directed or required by this act to be done not to be done so, or shall aid or abet any such omission or failure, or shall be guilty of any infraction of this act, or shall aid or abet therein, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any district court of the United States within the jurisdiction of which such offense was committed, be subject to a fine of not to exceed five thousand dollars for each offense.[1]

[1] The act of March 2, 1889, sec. 2, adds the following proviso and additional sections: "*Provided*, That if the offense for which any person shall be convicted as aforesaid shall be an unlawful discrimination in rates, fares, or charges, for the transportation of passengers or property, such person shall, in addition to the fine hereinbefore provided for, be liable to imprisonment in the penitentiary for a term of not exceeding two years, or both such fine and imprisonment, in the discretion of the court.

"Any common carrier subject to the provisions of this act, or, whenever such common carrier is a corporation, any officer or agent thereof, or any person acting for or employed by such corporation, who, by means of false billing, false classification, false weighing, or false report of weight, or by any other device or means, shall knowingly and willfully assist, or shall willingly suffer or permit, any person or persons to obtain transportation for property at less than the regular rates then

SEC. 11. That a Commission is hereby created and established to be known as the Inter-State Commerce Commission, which shall be composed of five Commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. The Commissioners first appointed under this act shall continue in office for the term of two, three, four, five, and six years, respectively, from the first day of January, anno Domini eighteen hun-

established and in force on the line of transportation of such common carrier, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed, be subject to a fine of not exceeding five thousand dollars, or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court, for each offense.

"Any person and any officer or agent of any corporation or company who shall deliver property for transportation to any common carrier, subject to the provisions of this act, or for whom as consignor or consignee any such carrier shall transport property, who shall knowingly and willfully, by false billing, false classification, false weighing, false representation of the contents of the package, or false report of weight, or by any other device or means, whether with or without the consent or connivance of the carrier, its agent or agents, obtain transportation for such property at less than the regular rates then established and in force on the line of transportation, shall be deemed guilty of fraud, which is hereby declared to be a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed, be subject for each offense to a fine of not exceeding five thousand dollars or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court.

"If any such person, or any officer or agent of any such corporation or company, shall, by payment of money or other thing of value, solicitation, or otherwise, induce any common carrier subject to the provisions of this act, or any of its officers or agents, to discriminate unjustly in his, its, or their favor as against any other consignor or consignee in the transportation of property, or shall aid or abet any common carrier in any such unjust discrimination, such person, or such officer or agent of such corporation or company, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed, be subject to a fine of not exceeding five thousand dollars, or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court, for each offense; and such person, corporation, or company shall also, together with said common carrier, be liable, jointly or severally, in an action on the case to be brought by any consignor or consignee discriminated against in any court of the United States of competent jurisdiction for all damages caused by or resulting therefrom."

dred and eighty-seven, the term of each to be designated by the President; but their successors shall be appointed for terms of six years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the Commissioner whom he shall succeed. Any Commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. Not more than three of the Commissioners shall be appointed from the same political party. No person in the employ of or holding any official relation to any common carrier subject to the provisions of this act, or owning stock or bonds thereof, or who is in any manner pecuniarily interested therein, shall enter upon the duties of or hold such office. Said Commissioners shall not engage in any other business, vocation, or employment. No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission.

SEC. 12. That the Commission hereby created shall have authority to inquire into the management of the business of all common carriers subject to the provisions of this act, and shall keep itself informed as to the manner and method in which the same is conducted, and shall have the right to obtain from such common carriers full and complete information necessary to enable the Commission to perform the duties and carry out the objects for which it was created; and for the purposes of this act the Commission shall have power to require the attendance and testimony of witnesses and the production of all books, papers, tariffs, contracts, agreements, and documents relating to any matter under investigation, and to that end may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents under the provisions of this section.[1]

[1] The act of March 2, 1889, sec. 3, amends the last part of this section to read: "and the Commission is hereby authorized and required to execute and enforce the provisions of this act; and, upon the request of the Commission, it shall be the duty of any district attorney of the United States to whom the Commission may apply to institute in the proper court and to prosecute, under the direction of the Attorney-General of the United States, all necessary proceedings for the enforcement of the provisions of this act, and for the punishment of all violations

And any of the circuit courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpœna issued to any common carrier subject to the provisions of this act, or other person, issue an order requiring such common carrier or other person to appear before said Commission (and produce books and papers if so ordered) and give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. The claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying; but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding.

SEC. 13. That any person, firm, corporation, or association, or any mercantile, agricultural, or manufacturing society, or any body politic or municipal organization complaining of anything done or omitted to be done by any common carrier subject to the provisions of this act in contravention of the provisions thereof, may apply to said Commission by petition, which shall briefly state the facts; whereupon a statement of the charges thus made shall be forwarded by the Commission to such common carrier, who shall be called upon to satisfy the complaint or to answer the same in writing within a reasonable time, to be specified by the Commission. If such common carrier, within the time specified, shall

thereof; and the costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States; and for the purposes of this act the Commission shall have power to require, by subpœna, the attendance and testimony of witnesses and the production of all books, papers, tariffs, contracts, agreements, and documents relating to any matter under investigation, and in case of disobedience to a subpœna, the Commission, or any party to a proceeding before the Commission, may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents under the provisions of this section."

An act of February 10, 1891, further amended the foregoing section by inserting after the word "investigation," the words, "Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing." Detailed provision was also made for taking testimony by deposition.

make reparation for the injury alleged to have been done, said carrier shall be relieved of liability to the complainant only for the particular violation of law thus complained of. If such carrier shall not satisfy the complaint within the time specified, or there shall appear to be any reasonable ground for investigating said complaint, it shall be the duty of the Commission to investigate the matters complained of in such manner and by such means as it shall deem proper.

Said Commission shall in like manner investigate any complaint forwarded by the railroad commissioner or railroad commission of any State or Territory, at the request of such commissioner or commission, and may institute any inquiry on its own motion in the same manner and to the same effect as though complaint had been made.

No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

SEC. 14. That whenever an investigation shall be made by said Commission, it shall be its duty to make a report in writing in respect thereto, which shall include the findings of fact upon which the conclusions of the Commission are based, together with its recommendation as to what reparation, if any, should be made by the common carrier to any party or parties who may be found to have been injured; and such findings so made shall thereafter, in all judicial proceedings, be deemed prima facie evidence as to each and every fact found. . . .

SEC. 15. That if in any case in which an investigation shall be made by said Commission it shall be made to appear to the satisfaction of the Commission, either by the testimony of witnesses or other evidence, that anything has been done or omitted to be done in violation of the provisions of this act, or of any law cognizable by said Commission, by any common carrier, or that any injury or damage has been sustained by the party or parties complaining, or by other parties aggrieved in consequence of any such violation, it shall be the duty of the Commission to forthwith cause a copy of its report in respect thereto to be delivered to such common carrier, together with a notice to said common carrier

to cease and desist from such violation, or to make reparation for the injury so found to have been done, or both, within a reasonable time, to be specified by the Commission; and if, within the time specified, it shall be made to appear to the Commission that such common carrier has ceased from such violation of law, and has made reparation for the injury found to have been done, in compliance with the report and notice of the Commission, or to the satisfaction of the party complaining, a statement to that effect shall be entered of record by the Commission, and the said common carrier shall thereupon be relieved from further liability or penalty for such particular violation of law.

SEC. 16. That whenever any common carrier, as defined in and subject to the provisions of this act, shall violate or refuse or neglect to obey any lawful order or requirement of the Commission in this act named,[1] it shall be the duty of the Commission, and lawful for any company or person interested in such order or requirement, to apply, in a summary way, by petition, to the circuit court of the United States sitting in equity in the judicial district in which the common carrier complained of has its principal office, or in which the violation or disobedience of such order or requirement shall happen, alleging such violation or disobedience, as the case may be; and the said court shall have power to hear and determine the matter, on such short notice to the common carrier complained of as the court shall deem reasonable; and such notice may be served on such common carrier, his or its officers, agents, or servants, in such manner as the court shall direct; and said court shall proceed to hear and determine the matter speedily as a court of equity, and without the formal pleadings and proceedings applicable to ordinary suits in equity, but in such manner as to do justice in the premises; and to this end such court shall have power, if it think fit, to direct and prosecute, in such mode and by such persons as it may appoint, all such inquiries as the court may think needful to enable it to form a just judgment in

[1] The act of March 2, 1889, sec. 5, inserts the words: "not founded upon a controversy requiring a trial by jury, as provided by the seventh amendment to the Constitution of the United States."

the matter of such petition; and on such hearing the report of said Commission [1] shall be prima facie evidence of the matters therein stated; and if it be made to appear to such court, on such hearing or on report of any such person or persons, that the lawful order or requirement of said Commission drawn in question has been violated or disobeyed, it shall be lawful for such court to issue a writ of injunction or other proper process, mandatory or otherwise, to restrain such common carrier from further continuing such violation or disobedience of such order or requirement of said Commission, and enjoining obedience to the same; and in case of any disobedience of any such writ of injunction or other proper process, mandatory or otherwise, it shall be lawful for such court to issue writs of attachment, or any other process of said court incident or applicable to writs of injunction or other proper process, mandatory or otherwise, against such common carrier, and if a corporation, against one or more of the directors, officers, or agents of the same, or against any owner, lessee, trustee, receiver, or other person failing to obey such writ of injunction or other proper process, mandatory or otherwise; and said court may, if it shall think fit, make an order directing such common carrier or other person so disobeying such writ of injunction or other proper process, mandatory or otherwise, to pay such sum of money not exceeding for each carrier or person in default the sum of five hundred dollars for every day after a day to be named in the order that such carrier or other person shall fail to obey such injunction or other proper process, mandatory or otherwise; and such moneys shall be payable as the court shall direct, either to the party complaining, or into court to abide the ultimate decision of the court, or into the Treasury; and payment thereof may, without prejudice to any other mode of recovering the same, be enforced by attachment or order in the nature of a writ of execution, in like manner as if the same had been recovered by a final decree in personam in such court. When the subject in dispute shall be of the value of two thousand dollars or

[1] Amended by act of March 2, 1889, sec. 5, to read: "the findings of fact in the report of said Commission," etc.

more, either party to such proceeding before said court may appeal to the Supreme Court of the United States, under the same regulations now provided by law in respect of security for such appeal; but such appeal shall not operate to stay or supersede the order of the court or the execution of any writ or process thereon; and such court may, in every such matter, order the payment of such costs and counsel fees as shall be deemed reasonable. Whenever any such petition shall be filed or presented by the Commission it shall be the duty of the district attorney, under the direction of the Attorney-General of the United States, to prosecute the same; and the costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States. For the purposes of this act, excepting its penal provisions, the circuit courts of the United States shall be deemed to be always in session.[1]

[1] Section 5 of the act of March 2, 1889, inserts the following paragraph, ending with the last sentence of section 16 as above: "If the matters involved in any such order or requirement of said Commission are founded upon a controversy requiring a trial by jury, as provided by the seventh amendment to the Constitution of the United States, and any such common carrier shall violate or refuse or neglect to obey or perform the same, after notice given by said Commission as provided in the fifteenth section of this act, it shall be lawful for any company or person interested in such order or requirement to apply in a summary way by petition to the circuit court of the United States sitting as a court of law in the judicial district in which the carrier complained of has its principal office, or in which the violation or disobedience of such order or requirement shall happen, alleging such violation or disobedience as the case may be; and said court shall by its order then fix a time and place for the trial of said cause, which shall not be less than twenty nor more than forty days from the time said order is made, and it shall be the duty of the marshal of the district in which said proceeding is pending to forthwith serve a copy of said petition, and of said order, upon each of the defendants, and it shall be the duty of the defendants to file their answers to said petition within ten days after the service of the same upon them as aforesaid. At the trial [*of*] the findings of fact of said Commission as set forth in its report shall be prima facie evidence of the matters therein stated, and if either party shall demand a jury or shall omit to waive a jury the court shall, by its order, direct the marshal forthwith to summon a jury to try the cause; but if all the parties shall waive a jury in writing, then the court shall try the issues in said cause and render its judgment thereon. If the subject in dispute shall be of the value of two thousand dollars or more either party may appeal to the Supreme Court of the United States under the same regulations now provided by law in respect to security for such appeal; but such appeal

SEC. 17. [Procedure by and before the Commission.]

SEC. 18. [Salaries, expenses, offices, &c.]

SEC. 19. That the principal office of the Commission shall be in the city of Washington, where its general sessions shall be held; but whenever the convenience of the public or of the parties may be promoted or delay or expense prevented thereby, the Commission may hold special sessions in any part of the United States. It may, by one or more of the Commissioners, prosecute any inquiry necessary to its duties, in any part of the United States, into any matter or question of fact pertaining to the business of any common carrier subject to the provisions of this act.

SEC. 20. That the Commission is hereby authorized to require annual reports from all common carriers subject to the provisions of this act, to fix the time and prescribe the manner in which such reports shall be made, and to require from such carriers specific answers to all questions upon which the Commission may need information. Such annual reports shall show in detail the amount of capital stock issued, the amounts paid therefor, and the manner of payment for the same; the dividends paid, the surplus fund, if any, and the number of stockholders; the funded and floating debts and the interest paid thereon; the cost and value of the carrier's property, franchises, and equipment; the number of employees and the salaries paid each class; the amounts expended for improvements each year, how expended, and the character of such improvements; the earnings and receipts from each branch of business and from all sources; the operating and other expenses; the balances of profit and loss; and a complete exhibit of the financial operations of the carrier each year, including an annual balance-sheet. Such reports shall also contain such information in relation to rates or regulations concerning fares or

must be taken within twenty days from the day of the rendition of the judgment of said circuit court. If the judgment of the circuit court shall be in favor of the party complaining, he or they shall be entitled to recover a reasonable counsel or attorney's fee, to be fixed by the court, which shall be collected as part of the costs in the case. For the purposes of this act, excepting its penal provisions, the circuit courts of the United States shall be deemed to be always in session."

freights, or agreements, arrangements, or contracts with other common carriers, as the Commission may require; and the said Commission may, within its discretion, for the purpose of enabling it the better to carry out the purposes of this act, prescribe (if in the opinion of the Commission it is practicable to prescribe such uniformity and methods of keeping accounts) a period of time within which all common carriers subject to the provisions of this act shall have, as near as may be, a uniform system of accounts, and the manner in which such accounts shall be kept.

SEC. 21. That the Commission shall, on or before the first day of December in each year, make a report to the Secretary of the Interior, which shall be by him transmitted to Congress, and copies of which shall be distributed as are the other reports issued from the Interior Department.[1] This report shall contain such information and data collected by the Commission as may be considered of value in the determination of questions connected with the regulation of commerce, together with such recommendations as to additional legislation relating thereto as the Commission may deem necessary.

SEC. 22. That nothing in this act shall apply to the carriage, storage, or handling of property free or at reduced rates for the United States, State, or municipal governments, or for charitable purposes, or to or from fairs and expositions for exhibition thereat,[2] or the issuance of mileage, excursion, or commutation passenger tickets: nothing in this act shall be construed to prohibit any common carrier from giving reduced rates to ministers of religion;[3] nothing in this act shall be construed to prevent railroads

[1] By act of March 2, 1889, sec. 8, it was provided that the report of the Commission should be transmitted directly to Congress.

[2] The act of March 2, 1889, sec. 9, inserts the words, "or the free carriage of destitute and homeless persons transported by charitable societies, and the necessary agents employed in such transportation."

[3] The act of March 2, 1889, sec. 9, inserts the words, "or to municipal governments for the transportation of indigent persons, or to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers and of Soldiers' and Sailors' Orphan Homes, including those about to enter and those returning home after discharge, under arrangements with the boards of managers of said homes."

from giving free carriage to their own officers and employees, or to prevent the principal officers of any railroad company or companies from exchanging passes or tickets with other railroad companies for their officers and employees; and nothing in this act contained shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this act are in addition to such remedies: *Provided*, That no pending litigation shall in any way be affected by this act.

SEC. 23. [Appropriation.]

SEC. 24. That the provisions of sections eleven and eighteen of this act, relating to the appointment and organization of the Commission herein provided for, shall take effect immediately, and the remaining provisions of this act shall take effect sixty days after its passage.[1]

APPROVED, February 4, 1887.

[1] The amendatory act of March 2, 1889, adds the following: "SEC. 10. That the circuit and district courts of the United States shall have jurisdiction upon the relation of any person or persons, firm, or corporation, alleging such violation by a common carrier, of any of the provisions of the act to which this is a supplement and all acts amendatory thereof, as prevents the relator from having interstate traffic moved by said common carrier at the same rates as are charged, or upon terms or conditions as favorable as those given by said common carrier for like traffic under similar conditions to any other shipper, to issue a writ or writs of mandamus against said common carrier, commanding such common carrier to move and transport the traffic, or to furnish cars or other facilities for transportation for the party applying for the writ; *Provided*, That if any question of fact as to the proper compensation to the common carrier for the service to be enforced by the writ is raised by the pleadings, the writ of peremptory mandamus may issue, notwithstanding such question of fact is undetermined, upon such terms as to security, payment of money into the court, or otherwise, as the court may think proper, pending the determination of the question of fact: *Provided*, That the remedy hereby given by writ of mandamus shall be cumulative, and shall not be held to exclude or interfere with other remedies provided by this act or the act to which it is a supplement."

No. 115. Allotment of Lands in Severalty to Indians

February 8, 1887

A BILL to provide for the allotment of lands in severalty to Indians was introduced in the Senate, December 8, 1885, by Dawes of Massachusetts, and referred to the Committee on Indian Affairs. The bill was reported January 28, 1886, and February 25 passed. The bill was reported without amendment in the House April 20, but no further action was taken during the session. December 15 the bill was taken up, and the next day passed the House. The Senate disagreeing to the amendments of the House, the bill went to a conference committee. The report of the committee was agreed to by the House January 21, 1887, and by the Senate January 25. An amending act of February 28, 1891, extended the benefits of the act and provided for the lease of allotments in certain cases.

REFERENCES.— *Text* in *U.S. Statutes at Large*, XXIV, 388–391. For the proceedings see the *House and Senate Journals*, 49th Cong., 1st and 2d Sess., and the *Cong. Record*.

An act to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes.

Be it enacted . . ., That in all cases where any tribe or band of Indians has been, or shall hereafter be, located upon any reservation created for their use, either by treaty stipulation or by virtue of an act of Congress or executive order setting apart the same for their use, the President of the United States be, and he hereby is, authorized, whenever in his opinion any reservation or any part thereof of such Indians is advantageous for agricultural and grazing purposes, to cause said reservation, or any part thereof, to be surveyed, or resurveyed if necessary, and to allot the lands in said reservation in severalty to any Indian[*s*] located thereon in quantities as follows:

To each head of a family, one-quarter of a section;

To each single person over eighteen years of age, one-eighth of a section;

To each orphan child under eighteen years of age, one-eighth of a section; and

To each other single person under eighteen years now living, or who may be born prior to the date of the order of the President directing an allotment of the lands embraced in any reservation, one-sixteenth of a section: *Provided*, That in case there is not sufficient land in any of said reservations to allot lands to each individual of the classes above named in quantities as above provided, the lands embraced in such reservation or reservations shall be allotted to each individual of each of said classes pro rata in accordance with the provisions of this act: *And provided further*, That where the treaty or act of Congress setting apart such reservation provides for the allotment of lands in severalty in quantities in excess of those herein provided, the President, in making allotments upon such reservation, shall allot the lands to each individual Indian belonging thereon in quantity as specified in such treaty or act: *And provided further*, That when the lands allotted are only valuable for grazing purposes, an additional allotment of such grazing lands, in quantities as above provided, shall be made to each individual.

SEC. 2. That all allotments set apart under the provisions of this act shall be selected by the Indians, heads of families selecting for their minor children, and the agents shall select for each orphan child, and in such manner as to embrace the improvements of the Indians making the selection. Where the improvements of two or more Indians have been made on the same legal subdivision of land, unless they shall otherwise agree, a provisional line may be run dividing said lands between them, and the amount to which each is entitled shall be equalized in the assignment of the remainder of the land to which they are entitled under this act: *Provided*, That if any one entitled to an allotment shall fail to make a selection within four years after the President shall direct that allotments may be made on a particular reservation, the Secretary of the Interior may direct the agent of such tribe or band, if such there be, and if there be no agent, then a special agent appointed for that purpose, to make a selection for such

Indian, which selection shall be allotted as in cases where selections are made by the Indians, and patents shall issue in like manner.

SEC. 3. [Allotments to be made by special agents and Indian agents, and certified to the Commissioner of Indian Affairs.]

SEC. 4. That where any Indian not residing upon a reservation, or for whose tribe no reservation has been provided by treaty, act of Congress, or executive order, shall make settlement upon any surveyed or unsurveyed lands of the United States not otherwise appropriated, he or she shall be entitled, upon application to the local land-office for the district in which the lands are located, to have the same allotted to him or her, and to his or her children, in quantities and manner as provided in this act for Indians residing upon reservations; and when such settlement is made upon unsurveyed lands, the grant to such Indians shall be adjusted upon the survey of the lands so as to conform thereto; and patents shall be issued to them for such lands in the manner and with the restrictions as herein provided. . . .

SEC. 5. That upon the approval of the allotments provided for in this act by the Secretary of the Interior, he shall cause patents to issue therefor in the name of the allottees, which patents shall be of the legal effect, and declare that the United States does and will hold the land thus allotted, for the period of twenty-five years, in trust for the sole use and benefit of the Indian to whom such allotment shall have been made, or, in case of his decease, of his heirs according to the laws of the State or Territory where such land is located, and that at the expiration of said period the United States will convey the same by patent to said Indian, or his heirs as aforesaid, in fee, discharged of said trust and free of all charge or incumbrance whatsoever: *Provided*, That the President of the United States may in any case in his discretion extend the period. And if any conveyance shall be made of the lands set apart and allotted as herein provided, or any contract made touching the same, before the expiration of the time above mentioned, such conveyance or contract shall be absolutely null and void: *Provided*, That the law of descent and partition in force in the State or Ter-

ritory where such lands are situate shall apply thereto after patents therefor have been executed and delivered, except as herein otherwise provided; and the laws of the State of Kansas regulating the descent and partition of real estate shall, so far as practicable, apply to all lands in the Indian Territory which may be allotted in severalty under the provisions of this act: *And provided further*, That at any time after lands have been allotted to all the Indians of any tribe as herein provided, or sooner if in the opinion of the President it shall be for the best interests of said tribe, it shall be lawful for the Secretary of the Interior to negotiate with such Indian tribe for the purchase and release by said tribe, in conformity with the treaty or statute under which such reservation is held, of such portions of its reservation not allotted as such tribe shall, from time to time, consent to sell, on such terms and conditions as shall be considered just and equitable between the United States and said tribe of Indians, which purchase shall not be complete until ratified by Congress, and the form and manner of executing such release shall also be prescribed by Congress: *Provided however*, That all lands adapted to agriculture, with or without irrigation so sold or released to the United States by any Indian tribe shall be held by the United States for the sole purpose of securing homes to actual settlers and shall be disposed of by the United States to actual and bona fide settlers only in tracts not exceeding one hundred and sixty acres to any one person, on such terms as Congress shall prescribe, subject to grants which Congress may make in aid of education: *And provided further*, That no patents shall issue therefor except to the person so taking the same as and for a homestead, or his heirs, and after the expiration of five years occupancy thereof as such homestead; and any conveyance of said lands so taken as a homestead, or any contract touching the same, or lien thereon, created prior to the date of such patent, shall be null and void. And the sums agreed to be paid by the United States as purchase money for any portion of any such reservation shall be held in the Treasury of the United States for the sole use of the tribe or tribes of Indians; to whom such reservations belonged; and the same, with interest thereon at three

per cent per annum, shall be at all times subject to appropriation by Congress for the education and civilization of such tribe or tribes of Indians or the members thereof. . . . And if any religious society or other organization is now occupying any of the public lands to which this act is applicable, for religious or educational work among the Indians, the Secretary of the Interior is hereby authorized to confirm such occupation to such society or organization, in quantity not exceeding one hundred and sixty acres in any one tract, so long as the same shall be so occupied, on such terms as he shall deem just; but nothing herein contained shall change or alter any claim of such society for religious or educational purposes heretofore granted by law. And hereafter in the employment of Indian police, or any other employes in the public service among any of the Indian tribes or bands affected by this act, and where Indians can perform the duties required, those Indians who have availed themselves of the provisions of this act and become citizens of the United States shall be preferred.

SEC. 6. That upon the completion of said allotments and the patenting of the lands to said allottees, each and every member of the respective bands or tribes of Indians to whom allotments have been made shall have the benefit of and be subject to the laws, both civil and criminal, of the State or Territory in which they may reside; and no Territory shall pass or enforce any law denying any such Indian within its jurisdiction the equal protection of the law. And every Indian born within the territorial limits of the United States to whom allotments shall have been made under the provisions of this act, or under any law or treaty, and every Indian born within the territorial limits of the United States who has voluntarily taken up, within said limits, his residence separate and apart from any tribe of Indians therein, and has adopted the habits of civilized life, is hereby declared to be a citizen of the United States, and is entitled to all the rights, privileges, and immunities of such citizens, whether said Indian has been or not, by birth or otherwise, a member of any tribe of Indians within the territorial limits of the United States without in any manner

impairing or otherwise affecting the right of any such Indian to tribal or other property.

SEC. 7. [The Secretary of the Interior to prescribe rules for use of waters for irrigation.]

SEC. 8. That the provision of this act shall not extend to the territory occupied by the Cherokees, Creeks, Choctaws, Chickasaws, Seminoles, and Osage, Miamies and Peorias, and Sacs and Foxes, in the Indian Territory, nor to any of the reservations of the Seneca Nation of New York Indians in the State of New York, nor to that strip of territory in the State of Nebraska adjoining the Sioux Nation on the south added by executive order.

SEC. 9. [Appropriation for surveys.]

SEC. 10. That nothing in this act contained shall be so construed as to affect the right and power of Congress to grant the right of way through any lands granted to an Indian, or a tribe of Indians, for railroads or other highways, or telegraph lines, for the public use, or to condemn such lands to public uses, upon making just compensation.

SEC. 11. That nothing in this act shall be so construed as to prevent the removal of the Southern Ute Indians from their present reservation in Southwestern Colorado to a new reservation by and with the consent of a majority of the adult male members of said tribe.

APPROVED, February 8, 1887.

LEWIS-CLARK NORMAL SCHOOL MUSEUM

No. 116. Ownership of Real Estate in the Territories

March 3, 1887

A BILL to restrict the ownership of real estate in the Territories to American citizens was introduced in the House, January 11, 1886, by Lewis E. Payson of Illinois, and referred to the Committee on Public Lands. The bill was not reported until July 31; the same day it passed the House, the vote being 210 to 6, 106 not voting. The Senate passed the bill with amend-

ments August 4. The House referred the amended bill, and the session closed without further action. December 9 the amendments of the Senate were disagreed to, and the bill went to a conference committee. The report of the committee was agreed to by the Senate February 26, 1887, and by the House two days later. With the act should be compared the act of March 2, 1897 (No. 127, *post*).

References. — *Text* in *U.S. Statutes at Large*, XXIV, 476, 477. For the proceedings see the *House and Senate Journals*, 49th Cong., 1st and 2d Sess., and the *Cong. Record*. The text of the House bill is in the *Record*, July 31, 1886. Various statistical exhibits regarding the ownership of land in the United States by aliens are to be found in the debates.

An act to restrict the ownership of real estate in the Territories to American citizens, and so forth.

Be it enacted . . ., That it shall be unlawful for any person or persons not citizens of the United States, or who have not lawfully declared their intention to become such citizens, or for any corporation not created by or under the laws of the United States or of some State or Territory of the United States, to hereafter acquire, hold, or own real estate so hereafter acquired, or any interest therein, in any of the Territories of the United States or in the District of Columbia, except such as may be acquired by inheritance or in good faith in the ordinary course of justice in the collection of debts heretofore created: *Provided*, That the prohibition of this section shall not apply to cases in which the right to hold or dispose of lands in the United States is secured by existing treaties to the citizens or subjects of foreign countries, which rights, so far as they may exist by force of any such treaty shall continue to exist so long as such treaties are in force, and no longer.

Sec. 2. That no corporation or association more than twenty per centum of the stock of which is or may be owned by any person or persons, corporation or corporations, association or associations, not citizens of the United States, shall hereafter acquire or hold or own any real estate hereafter acquired in any of the Territories of the United States or of the District of Columbia.

Sec. 3. That no corporation other than those organized for the construction or operation of railways, canals, or turnpikes shall

acquire, hold, or own more than five thousand acres of land in any of the Territories of the United States; and no railroad, canal, or turnpike corporation shall hereafter acquire, hold, or own lands in any Territory, other than as may be necessary for the proper operation of its railroad, canal, or turnpike, except such lands as may have been granted to it by act of Congress. But the prohibition of this section shall not affect the title to any lands now lawfully held by any such corporation.

SEC. 4. That all property acquired, held, or owned in violation of the provisions of this act shall be forfeited to the United States, and it shall be the duty of the Attorney-General to enforce every such forfeiture by bill in equity or other proper process. And in any suit or proceeding that may be commenced to enforce the provisions of this act, it shall be the duty of the court to determine the very right of the matter without regard to matters of form, joinder of parties, multifariousness, or other matters not affecting the substantial rights either of the United States or of the parties concerned in any such proceeding arising out of the matters in this act mentioned.

APPROVED, March 3, 1887.

No. 117. Retirement of the Trade Dollar

March 3, 1887

A BILL for the retirement and re-coinage of the trade dollar, whose legal tender character had been taken away by the act of July 22, 1876 [No. 100], was introduced in the Senate, December 8, 1885, by John I. Mitchell of Pennsylvania, and referred to the Committee on Finance, in whose hands it remained throughout the session. December 14, 1886, the bill was reported with amendments, and on the 17th passed the Senate. The House referred the bill to the Committee on Coinage, Weights and Measures, which reported it, January 15, 1887, without amendment. February 12 a substitute offered by Samuel W. T. Lanham of Texas was agreed to, and the bill passed, the final vote being 174 to 36. The bill received its final form from a conference committee. The report of the committee was agreed to February 19, in the

Senate by a vote of 49 to 5, and in the House without a division. The bill became law without the approval of the President.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XXIV, 634, 635. For the proceedings see the *House and Senate Journals*, 49th Cong., 1st and 2d Sess., and the *Cong. Record*. The report submitted in the House January 15, 1887, is *House Report 3616*, 49th Cong., 2d Sess.

An act for the retirement and recoinage of the trade-dollar.

Be it enacted . . ., That for a period of six months after the passage of this act, United States trade-dollars, if not defaced, mutilated, or stamped, shall be received at the office of the Treasurer, or any assistant treasurer of the United States in exchange for a like amount, dollar for dollar, of standard silver dollars, or of subsidiary coins of the United States.

SEC. 2. That the trade-dollars received by, paid to, or deposited with the Treasurer or any assistant treasurer or national depositary of the United States shall not be paid out or in any other manner issued, but, at the expense of the United States, shall be transmitted to the coinage mints and recoined into standard silver dollars or subsidiary coin, at the discretion of the Secretary of the Treasury: *Provided*, That the trade-dollars recoined under this act shall not be counted as part of the silver bullion required to be purchased and coined into standard dollars as required by the act of February twenty-eighth, eighteen hundred and seventy-eight.

SEC. 3. That all laws and parts of laws authorizing the coinage and issuance of United States trade-dollars are hereby repealed.

No. 118. Anti-Polygamy Act

March 3, 1887

IN his annual message of December 8, 1885, President Cleveland called attention to the continued spread of Mormonism and polygamy, and the need of further legislation. On the same day a bill to amend the act of March 22, 1882 [No. 105], was introduced in the Senate by Edmunds of Vermont. On

the 21st the Committee on the Judiciary reported the bill without amendment. January 8, 1886, the bill passed the Senate by a vote of 38 to 7. A substitute was reported in the House January 12, 1886, and the bill placed on the calendar, where it remained for the rest of the session. January 12, 1887, the amended bill passed the House. The Senate refused to concur in the House amendments, and the bill was given its final form by a conference committee. The report of the committee was agreed to by the House, February 17, by a vote of 203 to 40, 75 not voting, and by the Senate on the 18th by a vote of 37 to 13. The bill became law under the ten days rule. The principal debate was over the sections dissolving the incorporation of the Mormon Church and denying the elective franchise to women. A joint resolution of October 25, 1893, directed the restoration to the church of the personal property and money of the corporation then in the hands of a receiver, "to be applied under the direction and control of the first presidency of said church to the charitable uses and purposes thereof, that is to say, for the payment of the debts for which said church is legally or equitably liable, for the relief of the poor and distressed members of said church, for the education of the children of such members, and for the building and repair of houses of worship for the use of said church, but in which the rightfulness of the practice of polygamy shall not be inculcated."

REFERENCES. — *Text* in *U.S. Statutes at Large*, XXIV, 635-641. For the proceedings see the *House and Senate Journals*, 49th Cong., 1st and 2d Sess., and the *Cong. Record*. The text of the Senate bill of January 8, 1886, is in the *Record*, January 12, 1887, House proceedings, where is also the text of the substitute reported in the House June 10. See *House Reports 2568 and 2735*, 49th Cong., 1st Sess.; *House Report 553*, 50th Cong., 1st Sess.; *Senate Exec. Doc. 21*, 50th Cong., 2d Sess. On the constitutionality of the act see *Romney v. United States*, 136 *U.S. Reports*, 1 ; *Mormon Church v. United States*, 140 *ibid.*, 665 ; *United States v. Mormon Church*, 150 *ibid.*, 145.

An act to amend an act entitled "An act to amend section fifty-three hundred and fifty-two of the Revised Statutes of the United States, in reference to bigamy, and for other purposes," approved March twenty-second, eighteen hundred and eighty-two.

[Sections 1–5 relate to testimony, witnesses and process in prosecutions for polygamy, and the punishment of adultery and other crimes.]

SEC. 6. That all laws of the legislative assembly of the Territory of Utah which provide that prosecutions for adultery can only be commenced on the complaint of the husband or wife are hereby disapproved and annulled ; and all prosecutions for adultery may

hereafter be instituted in the same way that prosecutions for other crimes are.

Sec. 7. That commissioners appointed by the supreme court and district courts in the Territory of Utah shall possess and may exercise all the powers and jurisdiction that are or may be possessed or exercised by justices of the peace in said Territory under the laws thereof, and the same powers conferred by law on commissoners appointed by circuit courts of the United States.

Sec. 8. That the marshal of said Territory of Utah, and his deputies, shall possess and may exercise all the powers in executing the laws of the United States or of said Territory, possessed and exercised by sheriffs, constables, and their deputies as peace officers; and each of them shall cause all offenders against the law, in his view, to enter into recognizance to keep the peace and to appear at the next term of the court having jurisdiction of the case, and to commit to jail in case of failure to give such recognizance. They shall quell and suppress assaults and batteries, riots, routs, affrays, and insurrections.

Sec. 9. That every ceremony of marriage, or in the nature of a marriage ceremony, of any kind, in any of the Territories of the United States, whether either or both or more of the parties to such ceremony be lawfully competent to be the subjects of such marriage or ceremony or not, shall be certified by a certificate stating the fact and nature of such ceremony, the full names of each of the parties concerned, and the full name of every officer, priest, and person, by whatever style or designation called or known, in any way taking part in the performance of such ceremony, which certificate shall be drawn up and signed by the parties to such ceremony and by every officer, priest, and person taking part in the performance of such ceremony, and shall be by the officer, priest, or other person solemnizing such marriage or ceremony filed in the office of the probate court, or, if there be none, in the office of court having probate powers in the county or district in which such ceremony shall take place, for record, and shall be immediately recorded, and be at all times subject to inspection as other public records. Such certificate, or the

record thereof, or a duly certified copy of such record, shall be prima facie evidence of the facts required by this act to be stated therein, in any proceeding, civil or criminal, in which the matter shall be drawn in question. [Punishment for violation.]

SEC. 10. That nothing in this act shall be held to prevent the proof of marriages, whether lawful or unlawful, by any evidence now legally admissible for that purpose.

SEC. 11. That the laws enacted by the legislative assembly of the Territory of Utah which provide for or recognize the capacity of illegitimate children to inherit or to be entitled to any distributive share in the estate of the father of any such illegitimate child are hereby disapproved and annulled; and no illegitimate child shall hereafter be entitled to inherit from his or her father or to receive any distributive share in the estate of his or her father: *Provided*, That this section shall not apply to any illegitimate child born within twelve months after the passage of this act, nor to any child made legitimate by the seventh section of the act . . . [of March 22, 1882].

SEC. 12. That the laws enacted by the legislative assembly of the Territory of Utah conferring jurisdiction upon probate courts, or the judges thereof, or any of them, in said Territory, other than in respect of the estates of deceased persons, and in respect of the guardianship of the persons and property of infants, and in respect of the persons and property of persons not of sound mind, are hereby disapproved and annulled; and no probate court or judge of probate shall exercise any jurisdiction other than in respect of the matters aforesaid, except as a member of a county court; and every such jurisdiction so by force of this act withdrawn from the said probate courts or judges shall be had and exercised by the district courts of said Territory respectively.

SEC. 13. That it shall be the duty of the Attorney-General of the United States to institute and prosecute proceedings to forfeit and escheat to the United States the property of corporations obtained or held in violation of section three of the act of . . . [July 1, 1862] . . . or in violation of section eighteen hundred and ninety of the Revised Statutes of the United States; and

all such property so forfeited and escheated to the United States shall be disposed of by the Secretary of the Interior, and the proceeds thereof applied to the use and benefit of the common schools in the Territory in which such property may be: *Provided*, That no building, or the grounds appurtenant thereto, which is held and occupied exclusively for purposes of the worship of God, or parsonage connected therewith, or burial ground shall be forfeited.

SEC. 14. That in any proceeding for the enforcement of the provisions of law against corporations or associations acquiring or holding property in any Territory of the United States in excess of the amount limited by law, the court before which such proceeding may be instituted shall have power in a summary way to compel the production of all books, records, papers, and documents of or belonging to any trustee or person holding or controlling or managing property in which such corporation may have any right, title, or interest whatever.

SEC. 15. That all laws of the legislative assembly of the Territory of Utah, or of the so-called government of the State of Deseret, creating, organizing, amending, or continuing the corporation or association called the Perpetual Emigrating Fund Company are hereby disapproved and annulled; and the said corporation, in so far as it may now have, or pretend to have, any legal existence, is hereby dissolved; and it shall not be lawful for the legislative assembly of the Territory of Utah to create, organize, or in any manner recognize any such corporation or association, or to pass any law for the purpose of or operating to accomplish the bringing of persons into the said Territory for any purpose whatsoever.

SEC. 16. That it shall be the duty of the Attorney-General of the United States to cause such proceedings to be taken in the supreme court of the Territory of Utah as shall be proper to carry into effect the provisions of the preceding section, and pay the debts and to dispose of the property and assets of said corporation according to law. Said property and assets, in excess of the debts and the amount of any lawful claims established by

the court against the same, shall escheat to the United States, and shall be taken, invested, and disposed of by the Secretary of the Interior, under the direction of the President of the United States, for the benefit of common schools in said Territory.

SEC. 17. That the acts of the legislative assembly of the Territory of Utah incorporating, continuing, or providing for the corporation known as the Church of Jesus Christ of Latter-Day Saints, and the ordinance of the so-called general assembly of the State of Deseret incorporating the Church of Jesus Christ of Latter-Day Saints, so far as the same may now have legal force and validity, are hereby disapproved and annulled, and the said corporation, in so far as it may now have, or pretend to have, any legal existence, is hereby dissolved. That it shall be the duty of the Attorney-General of the United States to cause such proceedings to be taken in the supreme court of the Territory of Utah as shall be proper to execute the foregoing provisions of this section and to wind up the affairs of said corporation conformably to law; and in such proceedings the court shall have power, and it shall be its duty, to make such decree or decrees as shall be proper to effectuate the transfer of the title to real property now held and used by said corporation for places of worship, and parsonages connected therewith, and burial grounds, and of the description mentioned in the proviso to section thirteen of this act and in section twenty-six of this act, to the respective trustees mentioned in section twenty-six of this act; and for the purposes of this section said court shall have all the powers of a court of equity.

SEC. 18. [Rights of widows in real estate.]

SEC. 19. That hereafter the judge of probate in each county within the Territory of Utah provided for by the existing laws thereof shall be appointed by the President of the United States, by and with the advice and consent of the Senate; and so much of the laws of said Territory as provide for the election of such judge by the legislative assembly are hereby disapproved and annulled.

SEC. 20. That it shall not be lawful for any female to vote at

any election hereafter held in the Territory of Utah for any public purpose whatever, and no such vote shall be received or counted or given effect in any manner whatever; and any and every act of the legislative assembly of the Territory of Utah providing for or allowing the registration or voting by females is hereby annulled.

SEC. 21. That all laws of the legislative assembly of the Territory of Utah which provide for numbering or identifying the votes of the electors at any election in said Territory are hereby disapproved and annulled; but the foregoing provision shall not preclude the lawful registration of voters, or any other provisions for securing fair elections which do not involve the disclosure of the candidates for whom any particular elector shall have voted.

SEC. 22. That the existing election districts and apportionments of representation concerning the members of the legislative assembly of the Territory of Utah are hereby abolished; and it shall be the duty of the governor, Territorial secretary, and the Board of Commissioners mentioned in section nine of the act of . . . [March 22, 1882] . . ., in said Territory, forthwith to redistrict said Territory, and apportion representation in the same in such manner as to provide, as nearly as may be, for an equal representation of the people (excepting Indians not taxed), being citizens of the United States, according to numbers, in said legislative assembly, and to the number of members of the council and house of representatives, respectively, as now established by law; and a record of the establishment of such new districts and the apportionment of representation thereto shall be made in the office of the secretary of said Territory, and such establishment and representation shall continue until Congress shall otherwise provide; and no persons other than citizens of the United States otherwise qualified shall be entitled to vote at any election in said Territory.

SEC. 23. That the provisions of section nine of said act approved March twenty-second, eighteen hundred and eighty-two, in regard to registration and election officers, and the registration of voters, and the conduct of elections, and the powers and duties of the Board therein mentioned, shall continue and remain opera-

tive until the provisions and laws therein referred to to be made and enacted by the legislative assembly of said Territory of Utah shall have been made and enacted by said assembly and shall have been approved by Congress.

SEC. 24. That every male person twenty-one years of age resident in the Territory of Utah shall, as a condition precedent to his right to register or vote at any election in said Territory, take and subscribe an oath or affirmation, before the registration officer of his voting precinct, that he is over twenty-one years of age, and has resided in the Territory of Utah for six months then last passed and in the precinct for one month immediately preceding the date thereof, and that he is a native-born (or naturalized, as the case may be) citizen of the United States, and further state in such oath or affirmation his full name, with his age, place of business, his status, whether single or married, and, if married, the name of his lawful wife, and that he will support the Constitution of the United States and will faithfully obey the laws thereof, and especially will obey the act . . . [of March 22, 1882] . . ., and will also obey this act in respect of the crimes in said act defined and forbidden, and that he will not, directly or indirectly, aid or abet, counsel or advise, any other person to commit any of said crimes. Such registration officer is authorized to administer said oath or affirmation; and all such oaths or affirmations shall be by him delivered to the clerk of the probate court of the proper county, and shall be deemed public records therein. But if any election shall occur in said Territory before the next revision of the registration lists as required by law, the said oath or affirmation shall be administered by the presiding judge of the election precinct on or before the day of election. As a condition precedent to the right to hold office in or under said Territory, the officer, before entering on the duties of his office, shall take and subscribe an oath or affirmation declaring his full name, with his age, place of business, his status, whether married or single, and, if married, the name of his lawful wife, and that he will support the Constitution of the United States and will faithfully obey the laws thereof, and especially will obey the act . . . [of

March 22, 1882] . . ., and will also obey this act in respect of the crimes in said act defined and forbidden, and that he will not, directly or indirectly, aid or abet, counsel or advise, any other person to commit any of said crimes; which oath or affirmation shall be recorded in the proper office and indorsed on the commission or certificate of appointment. All grand and petit jurors in said Territory shall take the same oath or affirmation, to be administered, in writing or orally, in the proper court. No person shall be entitled to vote in any election in said Territory, or be capable of jury service, or hold any office of trust or emolument in said Territory who shall not have taken the oath or affirmation aforesaid. No person who shall have been convicted of any crime under this act, or under the act of Congress aforesaid approved March twenty-second, eighteen hundred and eighty-two, or who shall be a polygamist, or who shall associate or cohabit polygamously with persons of the other sex, shall be entitled to vote in any election in said Territory, or be capable of jury service, or to hold any office of trust or emolument in said Territory.

Sec. 25. That the office of Territorial superintendent of district schools created by the laws of Utah is hereby abolished; and it shall be the duty of the supreme court of said Territory to appoint a commissioner of schools, who shall possess and exercise all the powers and duties heretofore imposed by the laws of said Territory upon the Territorial superintendent of district schools, and who shall receive the same salary and compensation, which shall be paid out of the treasury of said Territory; and the laws of the Territory of Utah providing for the method of election and appointment of such Territorial superintendent of district schools are hereby suspended until the further action of Congress shall be had in respect thereto. The said superintendent shall have power to prohibit the use in any district school of any book of a sectarian character or otherwise unsuitable. Said superintendent shall collect and classify statistics and other information respecting the district and other schools in said Territory, showing their progress, the whole number of children of school age, the number who attend school in each year in the respective

counties, the average length of time of their attendance, the number of teachers and the compensation paid to the same, the number of teachers who are Mormons, the number who are so-called gentiles, the number of children of Mormon parents and the number of children of so-called gentile parents, and their respective average attendance at school; all of which statistics and information shall be annually reported to Congress, through the governor of said Territory and the Department of the Interior.

SEC. 26. That all religious societies, sects, and congregations shall have the right to have and to hold, through trustees appointed by any court exercising probate powers in a Territory, only on the nomination of the authorities of such society, sect, or congregation, so much real property for the erection or use of houses of worship, and for such parsonages and burial grounds as shall be necessary for the convenience and use of the several congregations of such religious society, sect, or congregation.

SEC. 27. That all laws passed by the so-called State of Deseret and by the legislative assembly of the Territory of Utah for the organization of the militia thereof or for the creation of the Nauvoo Legion are hereby annulled, and declared of no effect; and the militia of Utah shall be organized and subjected in all respects to the laws of the United States regulating the militia in the Territories: *Provided, however,* That all general officers of the militia shall be appointed by the governor of the Territory, by and with the advice and consent of the council thereof. The legislative assembly of Utah shall have power to pass laws for organizing the militia thereof, subject to the approval of Congress.

No. 119. Chinese Exclusion Act

September 13, 1888

A BILL prohibiting for twenty years the immigration of Chinese laborers, based upon a provision of the treaty of November 27, 1880, between the United States and China, was vetoed by President Arthur April 4, 1882.

Thereupon Congress passed the exclusion act of May 6, 1882 [No. 107], prohibiting immigration for ten years. By a treaty concluded March 12, 1888, the coming of Chinese laborers to this country was prohibited for twenty years, but amendments proposed by the Senate, May 7, delayed ratification. A bill to exclude Chinese laborers without limit of time was reported in the Senate, July 11, 1888, by Joseph N. Dolph of Oregon, from the Committee on Foreign Relations, and passed the Senate August 8. The bill was substantially the same as a bill reported by the House Committee on Foreign Affairs June 23. The Senate bill was reported in the House, August 18, with an amendment, and on the 20th passed. An act of May 5, 1892, continued in force for ten years all laws regulating or prohibiting the immigration of Chinese, provided for the removal of Chinese illegally in the United States, required Chinese arrested under the acts to prove lawful residence, denied bail in *habeas corpus* proceedings, and required all Chinese entitled to remain in the United States to be registered with the collector of internal revenue of the district in which they claimed residence. An act of November 3, 1893, made further provisions for the registration of Chinese already within the United States.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XXV, 476–479. For the proceedings see the *House and Senate Journals*, 50th Cong., 1st Sess., and the *Cong. Record.* There was no debate in the Senate. See *Senate Exec. Docs. 271, 272, 275, House Report 2727*, and the proclamation of March 17, 1894. The House and Senate votes on various Chinese immigration bills from 1879 are in the *Record*, August 18, House proceedings. See also *House Report 70*, 53d Cong., 1st Sess.; *Senate Report 776*, 57th Cong., 1st Sess.

An act to prohibit the coming of Chinese laborers to the United States.

Be it enacted . . ., That from and after the date of the exchange of ratifications of the pending treaty between the United States of America and His Imperial Majesty the Emperor of China, signed on the twelfth day of March, anno Domini eighteen hundred and eighty-eight, it shall be unlawful for any Chinese person, whether a subject of China or of any other power, to enter the United States, except as hereinafter provided.

SEC. 2. That Chinese officials, teachers, students, merchants,[1]

[1] An act of November 3, 1893, section 2, contains the following provisions: "The term 'merchant,' as employed herein and in the acts of which this is amendatory, shall have the following meaning and none other: A merchant is a person engaged in buying and selling merchandise, at a fixed place of business, which business is conducted in his name, and who during the time he claims to be

or travelers for pleasure or curiosity, shall be permitted to enter the United States, but in order to entitle themselves to do so, they shall first obtain the permission of the Chinese Government, or other Government of which they may at the time be citizens or subjects. Such permission and also their personal identity shall in such case be evidenced by a certificate to be made out by the diplomatic representative of the United States in the country, or of the consular representative of the United States at the port or place from which the person named therein comes. . . .

SEC. 3. That the provisions of this act shall apply to all persons of the Chinese race, whether subjects of China or other foreign power, excepting Chinese diplomatic or consular officers and their attendants; and the words "Chinese laborers," whenever used in this act, shall be construed to mean both skilled and unskilled laborers and Chinese employed in mining.[1]

SEC. 4. That the master of any vessel arriving in the United States from any foreign port or place with any Chinese passengers on board shall, when he delivers his manifest of cargo, and if there be no cargo, when he makes legal entry of his vessel, and before landing or permitting to land any Chinese person (unless a diplomatic or consular officer, or attendant of such officer), deliver to the collector of customs of the district in which the vessel shall have arrived the sealed certificates and letters as aforesaid, and a separate list of all Chinese persons taken on board of

engaged as a merchant, does not engage in the performance of any manual labor, except such as is necessary in the conduct of his business as such merchant.

"Where an application is made by a Chinaman for entrance into the United States on the ground that he was formerly engaged in this country as a merchant, he shall establish by the testimony of two credible witnesses other than Chinese the fact that he conducted such business as hereinbefore defined for at least one year before his departure from the United States, and that during such year he was not engaged in the performance of any manual labor, except such as was necessary in the conduct of his business as such merchant, and in default of such proof shall be refused landing."

[1] The act of November 3, 1893, section 2, defined the words "laborer" or "laborers" as meaning "both skilled and unskilled manual laborers, including Chinese employed in mining, fishing, huckstering, peddling, laundrymen, or those engaged in taking, drying, or otherwise preserving shell or other fish for home consumption or exportation."

his vessel at any foreign port or place, and of all such persons on board at the time of arrival as aforesaid. . . .

The master of any vessel as aforesaid shall not permit any Chinese diplomatic or consular officer or attendant of such officer to land without having first been informed by the collector of customs of the official character of such officer or attendant. . . .

SEC. 5. That from and after the passage of this act, no Chinese laborer in the United States shall be permitted, after having left, to return thereto, except under the conditions stated in the following sections.

SEC. 6. That no Chinese laborer within the purview of the preceding section shall be permitted to return to the United States unless he has a lawful wife, child, or parent in the United States, or property therein of the value of one thousand dollars, or debts of like amount due him and pending settlement. The marriage to such wife must have taken place at least a year prior to the application of the laborer for a permit to return to the United States, and must have been followed by the continuous cohabitation of the parties as man and wife.

If the right to return be claimed on the ground of property or of debts, it must appear that the property is bona fide and not colorably acquired for the purpose of evading this act, or that the debts are unascertained and unsettled, and not promissory notes or other similar acknowledgments of ascertained liability.

SEC. 7. That a Chinese person claiming the right to be permitted to leave the United States and return thereto on any of the grounds stated in the foregoing section, shall apply to the collector of customs of the district from which he wishes to depart at least a month prior to the time of his departure, and shall make on oath before the said collector a full statement descriptive of his family, or property, or debts, as the case may be, and shall furnish to said collector such proofs of the facts entitling him to return as shall be required by the rules and regulations prescribed from time to time by the Secretary of the Treasury, and for any false swearing in relation thereto he shall incur the penalties of perjury. He shall also permit the collector to take a full descrip-

tion of his person, which description the collector shall retain and mark with a number. And if the collector, after hearing the proofs and investigating all the circumstances of the case, shall decide to issue a certificate of return, he shall at such time and place as he may designate, sign and give to the person applying a certificate containing the number of the description last aforesaid, which shall be the sole evidence given to such person of his right to return. If this last named certificate be transferred, it shall become void, and the person to whom it was given shall forfeit his right to return to the United States. The right to return under the said certificate shall be limited to one year; but it may be extended for an additional period, not to exceed a year, in cases where, by reason of sickness or other cause of disability beyond his control, the holder thereof shall be rendered unable sooner to return, which facts shall be fully reported to and investigated by the consular representative of the United States at the port or place from which such laborer departs for the United States, and certified by such representative of the United States to the satisfaction of the collector of customs at the port where such Chinese person shall seek to land in the United States, such certificate to be delivered by said representative to the master of the vessel on which he departs for the United States. And no Chinese laborer shall be permitted to re-enter the United States without producing to the proper officer of the customs at the port of such entry the return certificate herein required. A Chinese laborer possessing a certificate under this section shall be admitted to the United States only at the port from which he departed therefrom, and no Chinese person, except Chinese diplomatic or consular officers, and their attendants, shall be permitted to enter the United States except at the ports of San Francisco, Portland, Oregon, Boston, New York, New Orleans, Port Townsend, or such other ports as may be designated by the Secretary of the Treasury.

[Sections 8–12 prescribe administrative regulations, penalties, &c.]

Sec. 13. That any Chinese person, or person of Chinese descent, found unlawfully in the United States, or its Territories, may

be arrested upon a warrant issued upon a complaint, under oath, filed by any party on behalf of the United States, by any justice, judge, or commissioner of any United States court, returnable before any justice, judge, or commissioner of a United States court, or before any United States court, and when convicted, upon a hearing, and found and adjudged to be one not lawfully entitled to be or remain in the United States, such person shall be removed from the United States to the country whence he came. But any such Chinese person convicted before a commissioner of a United States court may, within ten days from such conviction, appeal to the judge of the district court for the district. A certified copy of the judgment shall be the process upon which said removal shall be made, and it may be executed by the marshal of the district, or any officer having authority of a marshal under the provisions of this section. And in all such cases the person who brought or aided in bringing such person into the United States shall be liable to the Government of the United States for all necessary expenses incurred in such investigation and removal; and all peace officers of the several States and Territories of the United States are hereby invested with the same authority in reference to carrying out the provisions of this act, as a marshal or deputy marshal of the United States, and shall be entitled to like compensation, to be audited and paid by the same officers.

SEC. 14. That the preceding sections shall not apply to Chinese diplomatic or consular officers or their attendants, who shall be admitted to the United States under special instructions of the Treasury Department, without production of other evidence than that of personal identity.

SEC. 15. That the act entitled "An act to execute certain treaty stipulations relating to Chinese," approved May sixth, eighteen hundred and eighty-two, and an act to amend said act approved July fifth, eighteen hundred and eighty-four, are hereby repealed to take effect upon the ratification of the pending treaty as provided in section one of this act.

APPROVED, September 13, 1888.

No. 120. Anti-Trust Act

July 2, 1890

SEVERAL bills for the regulation of trusts came before Congress during the session of 1888–1889, but none got beyond the stage of discussion. A bill "to declare unlawful trusts and combinations in restraint of trade and production" was introduced in the Senate, December 4, 1889, by Sherman, and referred to the Committee on Finance, which reported it with amendments January 14, 1890. The bill was taken up February 27 and debated until March 27, when it was referred to the Committee on the Judiciary with instructions to report within twenty days. A substitute was reported April 2, and on the 8th passed the Senate with amendments. The House amended the bill so as to make unlawful "every contract or agreement entered into for the purpose of preventing competition in the sale or purchase of a commodity transported from one State to be sold in another." The Senate added further amendments, to which the House disagreed, and the bill went to a conference committee, which recommended that each house recede from its amendments. The acceptance of the report resulted in the passage of the Senate bill.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XXVI, 209, 210. For the proceedings see the *House and Senate Journals*, 51st Cong., 1st Sess., and the *Cong. Record*. The text of Sherman's original bill is in the *Record*, February 27. The report of the House Committee on the Judiciary, April 25, is *House Report 1707*; for an earlier report on the investigation of trusts see *House Report 3112*, 50th Cong., 1st Sess. For decisions under the act to 1897 see Gould and Tucker, *Notes on the Revised Statutes*, II, 622, 623.

An act to protect trade and commerce against unlawful restraints and monopolies.

Be it enacted . . .,

SEC. 1. Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal. Every person who shall make any such contract or engage in any such combination or conspiracy, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

SEC. 2. Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

SEC. 3. Every contract, combination in form of trust or otherwise, or conspiracy, in restraint of trade or commerce in any Territory of the United States or of the District of Columbia, or in restraint of trade or commerce between any such Territory and another, or between any such Territory or Territories and any State or States or the District of Columbia, or with foreign nations, or between the District of Columbia and any State or States or foreign nations, is hereby declared illegal. Every person who shall make any such contract or engage in any such combination or conspiracy, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

SEC. 4. The several circuit courts of the United States are hereby invested with jurisdiction to prevent and restrain violations of this act; and it shall be the duty of the several district attorneys of the United States, in their respective districts, under the direction of the Attorney-General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition and before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises.

SEC. 5. Whenever it shall appear to the court before which any proceeding under section four of this act may be pending, that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned, whether they reside in the district in which the court is held or not; and subpœnas to that end may be served in any district by the marshal thereof.

SEC. 6. Any property owned under any contract or by any combination, or pursuant to any conspiracy (and being the subject thereof) mentioned in section one of this act, and being in the course of transportation from one State to another, or to a foreign country, shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the forfeiture, seizure, and condemnation of property imported into the United States contrary to law.

SEC. 7. Any person who shall be injured in his business or property by any other person or corporation by reason of anything forbidden or declared to be unlawful by this act, may sue therefor in any circuit court of the United States in the district in which the defendant resides or is found, without respect to the amount in controversy, and shall recover three fold the damages by him sustained, and the costs of suit, including a reasonable attorney's fee.

SEC. 8. That the word "person," or "persons," wherever used in this act shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country.

APPROVED, July 2, 1890.

No. 121. Silver Purchase Act

July 14, 1890

IN his annual message of December 3, 1889, President Harrison called attention to the decline in the market price of silver, and expressed fear of the effect of a further decline on the value of gold and silver dollars in com-

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mercial transactions. The accompanying report of the Secretary of the Treasury proposed the issue of treasury notes "against deposits of silver bullion at the market price of silver when deposited, payable on demand in such quantities of silver bullion as will equal in value, at the date of presentation, the number of dollars expressed on the face of the notes at the market price of silver, or in gold, at the option of the Government, or in silver dollars at the option of the holder"; together with "the repeal of the compulsory feature of the present coinage act." A bill authorizing the issue of treasury notes on deposits of silver bullion was introduced in the House, January 20, 1890, by E. H. Conger of Iowa, and referred to the Committee on Coinage, Weights, and Measures. The bill was reported April 9. Another bill directing the purchase of silver bullion and the issue of treasury notes thereon, was introduced by Conger April 24, and referred; June 5 an amended form of this bill was substituted for the bill already before the House, and the bill passed, the vote being 135 to 119, 73 not voting. In the meantime a bill prepared by the Secretary of the Treasury, in accordance with the recommendations of his annual report, had been introduced in the Senate, January 20, by Morrill of Vermont, by request, had been taken up March 31, and was under consideration when the House bill was received. June 13 the House bill was substituted for the bill before the Senate. On the 17th a free coinage amendment, offered by Plumb of Kansas, was agreed to by a vote of 43 to 24, and the amended bill passed, the final vote being 42 to 25, 17 not voting. The House disagreed to the Senate amendments, and a conference committee settled the final form of the bill. The report of the committee was agreed to by the Senate, July 10, by a vote of 39 to 26, and by the House July 12, by a vote of 122 to 90, 116 not voting. So much of the act as provided for the purchase of silver bullion and the issue of notes thereon was repealed by the act of November 1, 1893 [No. 125].

REFERENCES. — *Text* in *U.S. Statutes at Large*, XXVI, 289, 290. For the proceedings see the *House and Senate Journals*, 51st Cong., 1st Sess., and the *Cong. Record*. The texts of the bills of April 24 and June 5 are in the *Record*, June 7, House proceedings. On Conger's bill of January 29 see *House Report 1086*. On the act see Dewey, *Financial History*, 436–438; Sherman, *Recollections*, II, 1069–1071; Knox, *United States Notes*, chap. 10. On the amount of coinage under the act see *Senate Doc. 163*, 55th Cong., 2d Sess.

An act directing the purchase of silver bullion and the issue of Treasury notes thereon, and for other purposes.

Be it enacted . . ., That the Secretary of the Treasury is hereby directed to purchase, from time to time, silver bullion to the aggregate amount of four million five hundred thousand ounces,

or so much thereof as may be offered in each month, at the market price thereof, not exceeding one dollar for three hundred and seventy-one and twenty-five hundredths grains of pure silver, and to issue in payment for such purchases of silver bullion Treasury notes of the United States to be prepared by the Secretary of the Treasury, in such form and of such denominations, not less than one dollar nor more than one thousand dollars, as he may prescribe, and a sum sufficient to carry into effect the provisions of this act is hereby appropriated out of any money in the Treasury not otherwise appropriated.

SEC. 2. That the Treasury notes issued in accordance with the provisions of this act shall be redeemable on demand, in coin, at the Treasury of the United States, or at the office of any assistant treasurer of the United States, and when so redeemed may be reissued; but no greater or less amount of such notes shall be outstanding at any time than the cost of the silver bullion and the standard silver dollars coined therefrom, then held in the Treasury purchased by such notes; and such Treasury notes shall be a legal tender in payment of all debts, public and private, except where otherwise expressly stipulated in the contract, and shall be receivable for customs, taxes, and all public dues, and when so received may be reissued; and such notes, when held by any national banking association, may be counted as a part of its lawful reserve. That upon demand of the holder of any of the Treasury notes herein provided for the Secretary of the Treasury shall, under such regulations as he may prescribe, redeem such notes in gold or silver coin, at his discretion, it being the established policy of the United States to maintain the two metals on a parity with each other upon the present legal ratio, or such ratio as may be provided by law.

SEC. 3. That the Secretary of the Treasury shall each month coin two million ounces of the silver bullion purchased under the provisions of this act into standard silver dollars until the first day of July eighteen hundred and ninety-one, and after that time he shall coin of the silver bullion purchased under the provisions of this act as much as may be necessary to provide for the

redemption of the Treasury notes herein provided for, and any gain or seigniorage arising from such coinage shall be accounted for and paid into the Treasury.

SEC. 4. That the silver bullion purchased under the provisions of this act shall be subject to the requirements of existing law and the regulations of the mint service governing the methods of determinating the amount of pure silver contained, and the amount of charges or deductions, if any, to be made.

SEC. 5. That so much of the act of February twenty-eighth, eighteen hundred and seventy-eight, entitled "An act to authorize the coinage of the standard silver dollar and to restore its legal-tender character," as requires the monthly purchase and coinage of the same into silver dollars of not less than two million dollars, nor more than four million dollars' worth of silver bullion, is hereby repealed.

SEC. 6. That upon the passage of this act the balances standing with the Treasurer of the United States to the respective credits of national banks for deposits made to redeem the circulating notes of such banks, and all deposits thereafter received for like purpose, shall be covered into the Treasury as a miscellaneous receipt, and the Treasury of the United States shall redeem from the general cash in the Treasury the circulating notes of said banks which may come into his possession subject to redemption; and upon the certificate of the Comptroller of the Currency that such notes have been received by him and that they have been destroyed and that no new notes will be issued in their place, reimbursement of their amount shall be made to the Treasurer, under such regulations as the Secretary of the Treasury may prescribe, from an appropriation hereby created, to be known as "National bank notes: Redemption account," but the provisions of this act shall not apply to the deposits received under section three of the act of June twentieth, eighteen hundred and seventy-four, requiring every National bank to keep in lawful money with the Treasurer of the United States a sum equal to five percentum of its circulation, to be held and used for the redemption of its circulating notes; and the balance remaining

of the deposits so covered shall, at the close of each month, be reported on the monthly public debt statement as debt of the United States bearing no interest.

SEC. 7. That this act shall take effect thirty days from and after its passage.

APPROVED, July 14, 1890.

No. 122. "Original Package" Act

August 8, 1890

IN the case of *Leisy v. Hardin*, decided in 1890, the Supreme Court of the United States held that, in the absence of a federal law to the contrary, intoxicating liquors, being subjects of interstate commerce, might be transported from one State to another, and sold in the original packages in which they were introduced, notwithstanding the prohibitory laws of the State in which they were offered for sale. As the decision would have the effect of nullifying to a considerable extent State prohibitory legislation, protection was immediately sought at the hands of Congress. A bill "subjecting imported liquors to the provisions of the laws of the several States" had been introduced in the Senate, December 4, 1889, by James F. Wilson of Iowa. The bill was reported with an amendment May 14, 1890. May 27 the amendment was withdrawn and a substitute offered; on the 29th the amended substitute passed the Senate, the vote being 34 to 10, 40 not voting. A substitute for the Senate bill passed the House July 22 by a vote of 177 to 38, 112 not voting. The Senate refused to concur in the House amendment, and the bill went to a conference committee. The report of the committee, recommending that the House recede from its amendments, was accepted by the House, August 6, by a vote of 119 to 93, 115 not voting, and by the Senate August 7, without a division.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XXVI, 313. For the proceedings see the *House and Senate Journals*, 51st Cong., 1st Sess., and the *Cong. Record*. The Senate report of May 14 is *Senate Report 993;* the House Report of July 1 is *House Report 2604;* see also *Senate Report 610*, 50th Cong., 1st Sess. The case of *Leisy v. Hardin* is in 135 *U.S. Reports*, 100; see also *In re Rahrer*, 140 *ibid.*, 545; Gould and Tucker, *Notes on the Revised Statutes*, II, 621, 622.

An act to limit the effect of the regulations of commerce between the several States and with foreign countries in certain cases.

Be it enacted . . ., That all fermented, distilled, or other intoxicating liquors or liquids transported into any State or Territory or remaining therein for use, consumption, sale or storage therein, shall upon arrival in such State or Territory be subject to the operation and effect of the laws of such State or Territory enacted in the exercise of its police powers, to the same extent and in the same manner as though such liquids or liquors had been produced in such State or Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

APPROVED, August 8, 1890.

No. 123. Anti-Lottery Act

September 18, 1890

A BILL to amend certain sections of the Revised Statutes relating to the transmission of lottery matter by mail was reported in the House, July 28, 1890, by John A. Caldwell of Ohio, from the Committee on Post Offices and Post Roads, in place of sundry bills on the same subject previously referred to the committee. The bill was taken up August 16, amended, and passed. The bill was reported without amendment in the Senate September 2, and passed that body on the 16th. An act of March 2, 1895, extended the prohibition to lottery matter originating abroad.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XXVI, 465, 466. For the proceedings see the *House and Senate Journals*, 51st Cong., 1st Sess., and the *Cong. Record*. There was no debate in the Senate. See also *House Report 2844* and *Senate Report 1677*.

An act to amend certain sections of the Revised Statutes relating to lotteries, and for other purposes.

Be it enacted . . ., That section thirty-eight hundred and ninety-four of the Revised Statutes be, and the same is hereby, amended to read as follows:

"SEC. 3894. No letter, postal-card, or circular concerning any lottery, so-called gift concert, or other similar enterprise offering prizes dependent upon lot or chance, or concerning schemes devised for the purpose of obtaining money or property under false pretenses, and no list of the drawings at any lottery or similar scheme, and no lottery ticket or part thereof, and no check, draft, bill, money, postal note, or money-order for the purchase of any ticket, tickets, or part thereof, or of any share or any chance in any such lottery or gift enterprise, shall be carried in the mail or delivered at or through any post-office or branch thereof, or by any letter carrier; nor shall any newspaper, circular, pamphlet, or publication of any kind containing any advertisement of any lottery or gift enterprise of any kind offering prizes dependent upon lot or chance, or containing any list of prizes awarded at the drawings of any such lottery or gift enterprise, whether said list is of any part or of all of the drawing, be carried in the mail or delivered by any postmaster or letter-carrier. Any person who shall knowingly deposit or cause to be deposited, or who shall knowingly send or cause to be sent, anything to be conveyed or delivered by mail in violation of this section, or who shall knowingly cause to be delivered by mail anything herein forbidden to be carried by mail, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment for each offense. Any person violating any of the provisions of this section may be proceeded against by information or indictment and tried and punished, either in the district at which the unlawful publication was mailed or to which it is carried by mail for delivery according to the direction thereon, or at which it is caused to be delivered by mail to the person to whom it is addressed."

SEC. 2. That section thirty-nine hundred and twenty-nine of the Revised Statutes be, and the same is hereby, amended to read as follows:

"SEC. 3929. The Postmaster-General may, upon evidence satisfactory to him that any person or company is engaged in conduct-

ing any lottery, gift enterprise, or scheme for the distribution of money, or of any real or personal property by lot, chance, or drawing of any kind, or that any person or company is conducting any other scheme or device for obtaining money or property of any kind through the mails by means of false or fraudulent pretenses, representations, or promises, instruct postmasters at any postoffice at which registered letters arrive directed to any such person or company, or to the agent or representative of any such person or company, whether such agent or representative is acting as an individual or as a firm, bank, corporation, or association of any kind, to return all such registered letters to the postmaster at the office at which they were originally mailed, with the word 'Fraudulent' plainly written or stamped upon the outside thereof; and all such letters so returned to such postmasters shall be by them returned to the writers thereof, under such regulations as the Postmaster-General may prescribe. But nothing contained in this section shall be so construed as to authorize any postmaster or other person to open any letter not addressed to himself. The public advertisement by such person or company so conducting such lottery, gift enterprise, scheme, or device, that remittances for the same may be made by registered letters to any other person, firm, bank, corporation, or association named therein shall be held to be prima facie evidence of the existence of said agency by all the parties named therein; but the Postmaster-General shall not be precluded from ascertaining the existence of such agency in any other legal way satisfactory to himself."

SEC. 3. That section four thousand and forty-one of the Revised Statutes be, and the same is hereby, amended to read as follows:

"SEC. 4041. The Postmaster-General may, upon evidence satisfactory to him that any person or company is engaged in conducting any lottery, gift enterprise, or scheme for the distribution of money, or of any real or personal property by lot, chance, or drawing of any kind, or that any person or company is conducting any other scheme for obtaining money or property of any kind through the mails by means of false or fraudulent pretenses,

representations, or promises, forbid the payment by any postmaster to said person or company of any postal money-orders drawn to his or its order, or in his or its favor, or to the agent of any such person or company, whether such agent is acting as an individual or as a firm, bank, corporation, or association of any kind, and may provide by regulation for the return to the remitters of the sums named in such money-orders. But this shall not authorize any person to open any letter not addressed to himself. The public advertisement by such person or company so conducting any such lottery, gift enterprise, scheme, or device, that remittances for the same may be made by means of postal money-orders to any other person, firm, bank, corporation, or association named therein shall be held to be prima facie evidence of the existence of said agency by all the parties named therein; but the Postmaster-General shall not be precluded from ascertaining the existence of such agency in any other legal way."

Approved, September 19, 1890.

No. 124. Immigration and Contract Labor

March 3, 1891

An act of March 3, 1875, forbade the entrance into the United States of "persons who are undergoing a sentence for conviction in their own country of felonious crimes other than political or growing out of or the result of such political offenses, or whose sentence has been remitted on condition of their emigration." By an act of August 3, 1892, a duty of fifty cents, to be paid by the master, owner, agent or consignee of the vessel, was imposed for each alien entering the United States by water. Convicts, insane or feeble-minded persons, and persons liable to become a public charge were forbidden to land, and foreign convicts, "except those convicted of political offenses," were to be returned, the expense of returning immigrants who were denied entrance to be borne by the owners of the vessels in which they came. A bill further to amend the laws relating to immigration and contract labor was introduced in the House, February 12, 1891, by William D. Owen of Indiana, and passed on the 25th by a vote of 125 to 48. The Senate substituted the House

bill for a similar bill of its own already under consideration, and passed the bill on the 27th.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XXVI, 1084–1087. For the proceedings see the *House and Senate Journals*, 51st Cong., 2d Sess., and the *Cong. Record.* See also *House Reports 3807* and *3472*; *House Report 2090*, 52d Cong., 1st Sess. On earlier projects see *House Report 76*, 40th Cong., 2d Sess.; *House Misc. Doc. 22*, 45th Cong., 2d Sess.; *House Report 1*, 46th Cong., 2d Sess. See also the act of August 2, 1882, for the regulation of passenger traffic by sea.

An act in amendment to the various acts relative to immigration and the importation of aliens under contract or agreement to perform labor.

Be it enacted . . ., That the following classes of aliens shall be excluded from admission into the United States, in accordance with the existing acts regulating immigration, other than those concerning Chinese laborers: All idiots, insane persons, paupers or persons likely to become a public charge, persons suffering from a loathsome or a dangerous contagious disease, persons who have been convicted of a felony or other infamous crime or misdemeanor involving moral turpitude, polygamists, and also any person whose ticket or passage is paid for with the money of another or who is assisted by others to come, unless it is affirmatively and satisfactorily shown on special inquiry that such person does not belong to one of the foregoing excluded classes, or to the class of contract laborers excluded by the act of February twenty-sixth, eighteen hundred and eighty-five, but this section shall not be held to exclude persons living in the United States from sending for a relative or friend who is not of the excluded classes under such regulations as the Secretary of the Treasury may prescribe: *Provided*, That nothing in this act shall be construed to apply to or exclude persons convicted of a political offense, notwithstanding said political offense may be designated as a "felony, crime, infamous crime, or misdemeanor, involving moral turpitude" by the laws of the land whence he came or by the court convicting.

SEC. 2. That no suit or proceeding for violations of said act of February twenty-sixth, eighten hundred and eighty-five, prohibit-

ing the importation and migration of foreigners under contract or agreement to perform labor, shall be settled, compromised, or discontinued without the consent of the court entered of record with reasons therefor.

SEC. 3. That it shall be deemed a violation of said act of February twenty-sixth, eighteen hundred and eighty-five, to assist or encourage the importation or migration of any alien by promise of employment through advertisements printed and published in any foreign country; and any alien coming to this country in consequence of such an advertisement shall be treated as coming under a contract as contemplated by such act; and the penalties by said act imposed shall be applicable in such a case: *Provided*, This section shall not apply to States and Immigration Bureaus of States advertising the inducements they offer for immigration to such States.

SEC. 4. That no steamship or transportation company or owners of vessels shall directly, or through agents, either by writing, printing, or oral representations, solicit, invite or encourage the immigration of any alien into the United States except by ordinary commercial letters, circulars, advertisements, or oral representations, stating the sailings of their vessels and the terms and facilities of transportation therein; and for a violation of this provision any such steamship or transportation company, and any such owners of vessels, and the agents by them employed, shall be subjected to the penalties imposed by the third section of said act of February twenty-sixth, eighteen hundred and eighty-five, for violations of the provision of the first section of said act.

SEC. 5. That section five of said act of February twenty-sixth, eighteen hundred and eighty-five, shall be, and hereby is, amended by adding to the second proviso[1] in said sections the words "nor to ministers of any religious denomination, nor persons belonging to any recognized profession, nor professors for colleges and seminaries," and by excluding from the second proviso of said section the words "or any relative or personal friend."

SEC. 6. That any person who shall bring into or land in the

[1] "First proviso" substituted by act of March 3, 1893, chap. 206, sec. 6.

United States by vessel or otherwise, or who shall aid to bring into or land in the United States by vessel or otherwise, any alien not lawfully entitled to enter the United States shall be deemed guilty of a misdemeanor, and shall, on conviction, be punished by a fine not exceeding one thousand dollars, or by imprisonment for a term not exceeding one year, or by both such fine and imprisonment.

SEC. 7. That the office of superintendent of immigration is hereby created and established, and the President, by and with the advice and consent of the Senate, is authorized and directed to appoint such officer. . . . The superintendent of immigration shall be an officer in the Treasury Department, under the control and supervision of the Secretary of the Treasury, to whom he shall make annual reports in writing of the transactions of his office, together with such special reports, in writing, as the Secretary of the Treasury shall require. . . .

SEC. 8. That upon the arrival by water at any place within the United States of any alien immigrants it shall be the duty of the commanding officer and the agents of the steam or sailing vessel by which they came to report the name, nationality, last residence, and destination of every such alien, before any of them are landed, to the proper inspection officers, who shall thereupon go or send competent assistants on board such vessel and there inspect all such aliens, or the inspection officers may order a temporary removal of such aliens for examination at a designated time and place, and then and there detain them until a thorough inspection is made. But such removal shall not be considered a landing during the pendency of such examination. The medical examination shall be made by surgeons of the Marine Hospital Service. In cases where the services of a Marine Hospital Surgeon can not be obtained without causing unreasonable delay the inspector may cause an alien to be examined by a civil surgeon and the Secretary of the Treasury shall fix the compensation for such examination. The inspection officers and their assistants shall have power to administer oaths, and to take and consider testimony touching the right of any such aliens to enter the United States, all of which

shall be entered of record.[1] During such inspection after temporary removal the superintendent shall cause such aliens to be properly housed, fed, and cared for, and also, in his discretion, such as are delayed in proceeding to their destination after inspection. All decisions made by the inspection officers or their assistants

[1] The following additional regulations and requirements were established by an act of March 3, 1893, chap. 206: "That, in addition to conforming to all present requirements of law, upon the arrival of any alien immigrants by water at any port within the United States, it shall be the duty of the master or commanding officer of the steamer or sailing vessel having said immigrants on board to deliver to the proper inspector of immigration at the port lists or manifests made at the time and place of embarkation of such alien immigrants on board such steamer or vessel, which shall, in answer to questions at the top of said lists, state as to each immigrant the full name, age, and sex, whether married or single; the calling or occupation; whether able to read or write; the nationality; the last residence; the seaport for landing in the United States; the final destination, if any, beyond the seaport of landing; whether having a ticket through to such final destination; whether the immigrant has paid his own passage or whether it has been paid by other persons or by any corporation, society, municipality, or government; whether in possession of money, and if so, whether upwards of thirty dollars and how much if thirty dollars or less; whether going to join a relative, and if so, what relative and his name and address; whether ever before in the United States, and if so, when and where; whether ever in prison or almshouse or supported by charity; whether a polygamist; whether under contract, express or implied, to perform labor in the United States; and what is the immigrant's condition of health mentally and physically, and whether deformed or crippled, and if so, from what cause.

"SEC. 2. That the immigrants shall be listed in convenient groups and no one list or manifest shall contain more than thirty names.

"To each immigrant or head of a family shall be given a ticket on which shall be written his name, a number or letter designating the list, and his number on the list, for convenience of identification on arrival. Each list or manifest shall be verified by the signature and the oath or affirmation of the master or commanding officer or of the officer first or second below him in command, taken before the United States consul or consular agent at the port of departure, before the sailing of said vessel, to the effect that he has made a personal examination of each and all of the passengers named therein, and that he has caused the surgeon of said vessel sailing therewith to make a physical examination of each of said passengers, and that from his personal inspection and the report of said surgeon he believes that no one of said passengers is an idiot or insane person, or a pauper or likely to become a public charge, or suffering from a loathsome or dangerous contagious disease, or a person who has been convicted of a felony or other infamous crime or misdemeanor involving moral turpitude, or a polygamist, or under a contract or agreement, express or implied, to perform labor in the United States, and that also, according to the best of his knowledge and belief, the information in said list or manifest concerning each of said passengers named therein is correct and true."

touching the right of any alien to land, when adverse to such right, shall be final unless appeal be taken to the superintendent of immigration, whose action shall be subject to review by the Secretary of the Treasury. It shall be the duty of the aforesaid officers and agents of such vessel to adopt due precautions to prevent the landing of any alien immigrant at any place or time other than that designated by the inspection officers, and any such officer or agent or person in charge of such vessel who shall either knowingly or negligently land or permit to land any alien immigrant at any place or time other than that designated by the inspection officers, shall be deemed guilty of a misdemeanor and punished by a fine not exceeding one thousand dollars, or by imprisonment for a term not exceeding one year, or by both such fine and imprisonment.

That the Secretary of the Treasury may prescribe rules for inspection along the borders of Canada, British Columbia, and Mexico so as not to obstruct or necessarily delay, impede, or annoy passengers in ordinary travel between said countries: *Provided*, That not exceeding one inspector shall be appointed for each customs district. . . .

All duties imposed and powers conferred by the second section of the act of August third, eighteen hundred and eighty-two, upon State commissioners, boards, or officers acting under contract with the Secretary of the Treasury shall be performed and exercised, as occasion may arise, by the inspection officers of the United States.

SEC. 9. That for the preservation of the peace and in order that arrests may be made for crimes under the laws of the States where the various United States immigrant stations are located, the officials in charge of such stations as occasion may require shall admit therein the proper State and municipal officers charged with the enforcement of such laws, and for the purposes of this section the jurisdiction of such officers and of the local courts shall extend over such stations.

SEC. 10. That all aliens who may unlawfully come to the United States shall, if practicable, be immediately sent back on the vessel

by which they were brought in. The cost of their maintenance while on land, as well as the expense of the return of such aliens, shall be borne by the owner or owners of the vessel on which such aliens came; and if any master, agent, consignee, or owner of such vessel shall refuse to receive back on board the vessel such aliens, or shall neglect to detain them thereon, or shall refuse or neglect to return them to the port from which they came, or to pay the cost of their maintenance while on land, such master, agent, consignee, or owner shall be deemed guilty of a misdemeanor, and shall be punished by a fine not less than three hundred dollars for each and every offense; and any such vessel shall not have clearance from any port of the United States while any such fine is unpaid.

SEC. 11. That any alien who shall come into the United States in violation of law may be returned as by law provided, at any time within one year thereafter, at the expense of the person or persons, vessel, transportation company, or corporation bringing such alien into the United States, and if that can not be done, then at the expense of the United States; and any alien who becomes a public charge within one year after his arrival in the United States from causes existing prior to his landing therein shall be deemed to have come in violation of law and shall be returned as aforesaid.

SEC. 12. [Pending actions not affected.]

SEC. 13. [Jurisdiction of courts]; and this act shall go into effect on the first day of April, eighteen hundred and ninety-one.

APPROVED, March 3, 1891.

No. 125. Repeal of the Silver Purchase Act of 1890

November 1, 1893

A BILL to repeal the silver purchase act of July 14, 1890 [No. 121], was introduced in the House, August 11, 1893, by William L. Wilson of West Virginia. A free coinage substitute was offered by Bland of Missouri. On

motion of Bland it was agreed that the debate should continue for fourteen days, eleven days to be allotted to general debate under the rules of the last House, and the last three days to the consideration of the bill and amendments under the five-minute rule; that upon the close of the debate, votes should be taken in the following order: on free coinage of silver at the present ratio, then at the ratio of 17 to 1, then at the ratio of 18 to 1, then at the ratio of 19 to 1, and finally at the ratio of 20 to 1; and that in the event of these several votes resulting in the negative, the House should vote on an amendment to revive the so-called Bland-Allison act of February 28, 1878 [No. 102]. The bill was then taken up, and formed the principal subject of debate until August 28. The disastrous panic, due in part to the anxiety caused by the shrinkage of gold reserve notwithstanding the rapid increase in the volume of silver certificates, made the debate one of extraordinary public interest, while the advocates of silver carried on a vigorous agitation for free coinage in the event of a repeal of the compulsory purchase clause of the act of 1890. The votes taken August 28 resulted as follows: on the free coinage substitute, 125 to 226; on free coinage at the ratio of 17 to 1, 101 to 241; at 18 to 1, 103 to 240; at 19 to 1, 104 to 238; at 20 to 1, 122 to 222; on reviving the Bland-Allison act, 136 to 213. The bill was then read a third time and passed, the vote being 239 to 109, 5 not voting. The Senate had under consideration a bill to the same effect as the House bill, as far as repealing the purchase clause of the act of 1890 was concerned; August 29 this was reported by the Committee on Finance as a substitute for the House bill. The bill was not considered until October 30, when the substitute was agreed to and the bill passed, the final vote being 43 to 32. November 1, by a vote of 194 to 94, 65 not voting, the House concurred in the Senate amendment. A bill to "coin the seigniorage" was vetoed by President Cleveland May 27, 1894.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XXVIII, 4, 5. For the proceedings see the *House and Senate Journals*, 53d Cong., 1st Sess., and the *Cong. Record.* Practically every aspect of the silver question was touched on in the debate.

An Act to repeal a part of an act approved July fourteenth, eighteen hundred and ninety, entitled "An act directing the purchase of silver bullion and the issue of Treasury notes thereon, and for other purposes."

Be it enacted . . ., That so much of the act approved July fourteenth, eighteen hundred and ninety, entitled "An act directing the purchase of silver bullion and issue of Treasury notes thereon, and for other purposes," as directs the Secretary of the Treasury to purchase from time to time silver bullion to the aggregate amount of four million five hundred thousand ounces, or so much

thereof as may be offered in each month at the market price thereof, not exceeding one dollar for three hundred and seventy-one and twenty-five one-hundredths grains of pure silver, and to issue in payment for such purchases Treasury notes of the United States, be, and the same is hereby, repealed. And it is hereby declared to be the policy of the United States to continue the use of both gold and silver as standard money, and to coin both gold and silver into money of equal intrinsic and exchangeable value, such equality to be secured through international agreement, or by such safeguards of legislation as will insure the maintenance of the parity in value of the coins of the two metals, and the equal power of every dollar at all times in the markets and in the payment of debts. And it is hereby further declared that the efforts of the Government should be steadily directed to the establishment of such a safe system of bimetallism as will maintain at all times the equal power of every dollar coined or issued by the United States, in the markets and in the payment of debts.

APPROVED, November 1, 1893.

No. 126. President Cleveland's Venezuelan Message

December 17, 1895

THE controversy over the boundary between Venezuela and Dutch Guiana, dating almost from the beginning of European settlements in the region, became of immediate interest to England in 1814, when Berbice, Demerara, and Essequibo were ceded by the Netherlands to Great Britain. Negotiations with Great Britain for the settlement of the dispute were begun in 1841, and continued with more or less interruption thereafter, but without result. An offer to arbitrate, made by the United States in December, 1886, was declined by Great Britain. The following year diplomatic relations between the latter power and Venezuela were broken off, but correspondence on the subject on the part of the United States continued. A joint resolution of February 20, 1895, "earnestly recommended" arbitration "to the favorable consideration of both the parties in interest." In a communication of July 20, 1895, Secre-

tary of State Olney strongly asserted the interest of the United States in the controversy because of its bearing on the Monroe Doctrine. To this communication Lord Salisbury replied in two notes dated November 26. An appropriation of $100,000 for the expenses of the commission proposed by President Cleveland in his message of December 17 was promptly made, and the commission, the members of which were David J. Brewer, R. H. Alvey, F. R. Coudert, Daniel C. Gilman, and Andrew D. White, organized in January, 1896. February 2, 1897, a treaty was concluded between Great Britain and Venezuela for a tribunal of arbitration to determine the boundary line in dispute. The report of the American commission was submitted February 27. The tribunal of arbitration met in Paris June 15, 1899, and October 3 delivered its award.

REFERENCES. — *Text* in *Senate Journal*, 54th Cong., 1st Sess., 55, 56. The papers accompanying the message are in the *Cong. Record*, pp. 191–199. The official documents are voluminous, comprising the *Report and Accompanying Papers* of the Commission; *British Blue Books*, United States, No. 1 (1896), Venezuela, Nos. 1, 3, 4, 5 (1896); *Official History of the Discussion*, etc. (Atlanta, Ga., 1896); *Venezuelan Documents; Venezuelan Briefs; Case of Venezuela; Printed Argument on behalf of Venezuela; Counter Case of Venezuela; British Case; British Counter Case;* and the *Proceedings* of the tribunal of arbitration. See also *Senate Exec. Doc. 226*, 50th Cong., 1st Sess.

To the Congress:

In my annual message addressed to the Congress on the 3d instant I called attention to the pending boundary controversy between Great Britain and the Republic of Venezuela, and recited the substance of a representation made by this Government to Her Britannic Majesty's Government suggesting reasons why such dispute should be submitted to arbitration for settlement and inquiring whether it would be so submitted.

The answer of the British Government, which was then awaited, has since been received, and, together with the dispatch to which it is a reply, is hereto appended.

Such reply is embodied in two communications addressed by the British prime minister to Sir Julian Pauncefote, the British ambassador at this capital. It will be seen that one of these communications is devoted exclusively to observations upon the Monroe doctrine, and claims that in the present instance a new and strange extension and development of this doctrine is insisted

on by the United States, that the reasons justifying an appeal to the doctrine enunciated by President Monroe are generally inapplicable "to the state of things in which we live at the present day," and especially inapplicable to a controversy involving the boundary line between Great Britain and Venezuela.

Without attempting extended argument in reply to these positions, it may not be amiss to suggest that the doctrine upon which we stand is strong and sound because its enforcement is important to our peace and safety as a nation, and is essential to the integrity of our free institutions and the tranquil maintenance of our distinctive form of government. It was intended to apply to every stage of our national life, and can not become obsolete while our Republic endures. If the balance of power is justly a cause for jealous anxiety among the Governments of the Old World and a subject for our absolute noninterference, none the less is an observance of the Monroe doctrine of vital concern to our people and their Government.

Assuming, therefore, that we may properly insist upon this doctrine without regard to "the state of things in which we live," or any changed conditions here or elsewhere, it is not apparent why its application may not be invoked in the present controversy.

If a European power, by an extension of its boundaries, takes possession of the territory of one of our neighboring Republics against its will and in derogation of its rights, it is difficult to see why, to that extent, such European power does not thereby attempt to extend its system of government to that portion of this continent which is thus taken. This is the precise action which President Monroe declared to be "dangerous to our peace and safety," and it can make no difference whether the European system is extended by an advance of frontier or otherwise.

It is also suggested in the British reply that we should not seek to apply the Monroe doctrine to the pending dispute because it does not embody any principle of international law which "is founded on the general consent of nations," and that "no statesman however eminent, and no nation however power-

ful, are competent to insert into the code of international law a novel principle which was never recognized before, and which has not since been accepted by the Government of any other country."

Practically, the principle for which we contend has peculiar, if not exclusive, relation to the United States. It may not have been admitted in so many words to the code of international law, but since in international councils every nation is entitled to the rights belonging to it, if the enforcement of the Monroe doctrine is something we may justly claim, it has its place in the code of international law as certainly and as securely as if it were specifically mentioned, and when the United States is a suitor before the high tribunal that administers international law the question to be determined is whether or not we present claims which the justice of that code of law can find to be right and valid.

The Monroe doctrine finds its recognition in those principles of international law which are based upon the theory that every nation shall have its rights protected and its just claims enforced.

Of course this Government is entirely confident that under the sanction of this doctrine we have clear rights and undoubted claims. Nor is this ignored in the British reply. The prime minister, while not admitting that the Monroe doctrine is applicable to present conditions, states: "In declaring that the United States would resist any such enterprise if it was contemplated President Monroe adopted a policy which received the entire sympathy of the English Government of that date." He further declares: "Though the language of President Monroe is directed to the attainment of objects which most Englishmen would agree to be salutary, it is impossible to admit that they have been inscribed by any adequate authority in the code of international law."

Again he says: "They (Her Majesty's Government) fully concur with the view which President Monroe apparently entertained, that any disturbance of the existing territorial distribution in that hemisphere by any fresh acquisitions on the part of any European State would be a highly inexpedient change."

In the belief that the doctrine for which we contend was clear and definite, that it was founded upon substantial considerations and involved our safety and welfare, that it was fully applicable to our present conditions and to the state of the world's progress, and that it was directly related to the pending controversy, and without any conviction as to the final merits of the dispute, but anxious to learn in a satisfactory and conclusive manner whether Great Britain sought, under a claim of boundary, to extend her possessions on this continent without right, or whether she merely sought possession of territory fairly included within her lines of ownership, this Government proposed to the Government of Great Britain a resort to arbitration as the proper means of settling the question, to the end that a vexatious boundary dispute between the two contestants might be determined and our exact standing and relation in respect to the controversy might be made clear.

It will be seen from the correspondence herewith submitted that this proposition has been declined by the British Government, upon grounds which, in the circumstances, seem to me to be far from satisfactory. It is deeply disappointing that such an appeal, actuated by the most friendly feelings toward both nations directly concerned, addressed to the sense of justice and to the magnanimity of one of the great powers of the world and touching its relations to one comparatively weak and small, should have produced no better results.

The course to be pursued by this Government, in view of the present condition, does not appear to admit of serious doubt. Having labored faithfully for many years to induce Great Britain to submit this dispute to impartial arbitration, and having been now finally apprised of her refusal to do so, nothing remains but to accept the situation, to recognize its plain requirements, and deal with it accordingly. Great Britain's present proposition has never thus far been regarded as admissible by Venezuela, though any adjustment of the boundary which that country may deem for her advantage and may enter into of her own free will can not of course be objected to by the United States.

Assuming, however, that the attitude of Venezuela will remain

unchanged, the dispute has reached such a stage as to make it now incumbent upon the United States to take measures to determine with sufficient certainty for its justification what is the true divisional line between the Republic of Venezuela and British Guiana. The inquiry to that end should of course be conducted carefully and judicially, and due weight should be given to all available evidence, records, and facts in support of the claims of both parties.

In order that such an examination should be prosecuted in a thorough and satisfactory manner, I suggest that the Congress make an adequate appropriation for the expenses of a commission, to be appointed by the Executive, who shall make the necessary investigation and report upon the matter with the least possible delay. When such report is made and accepted it will, in my opinion, be the duty of the United States to resist, by every means in its power, as a willful aggression upon its rights and interests, the appropriation by Great Britain of any lands or the exercise of governmental jurisdiction over any territory which, after investigation, we have determined of right belongs to Venezuela.

In making these recommendations I am fully alive to the responsibility incurred, and keenly realize all the consequences that may follow.

I am, nevertheless, firm in my conviction that while it is a grievous thing to contemplate the two great English-speaking peoples of the world as being otherwise than friendly competitors in the onward march of civilization and strenuous and worthy rivals in all the arts of peace, there is no calamity which a great nation can invite which equals that which follows a supine submission to wrong and injustice and the consequent loss of national self-respect and honor, beneath which are shielded and defended a people's safety and greatness.

GROVER CLEVELAND.

EXECUTIVE MANSION, *December 17, 1895.*

No. 127. Alien Ownership of Real Estate in the Territories

March 2, 1897

A BILL to amend the act of March 3, 1887 [No. 116], relating to the ownership of real estate in the Territories by aliens, was introduced in the House, May 1, 1896, by Thomas B. Catron, delegate from New Mexico. The bill was reported without amendment May 23, but no further action was taken during the session. December 10 the bill was called up, and, after some discussion, engrossment was refused. Another bill, with title as in the act following, was introduced by Catron on the 17th, and passed January 12, 1897. The bill was reported without amendment in the Senate February 16, and passed on the 25th. The reason for the act was stated to be the fact that the act of 1887 had operated to keep capital out of the Territories.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XXIX, 618, 619. For the proceedings see the *House and Senate Journals*, 54th Cong., 1st and 2d Sess., and the *Cong. Record*. The text of the bill reported May 23 is in the *Record*, December 10. See *House Report 2474; Senate Report 2690*, 50th Cong., 2d Sess.

An Act to better define and regulate the rights of aliens to hold and own real estate in the Territories.

Be it enacted . . ., That an Act entitled "An Act to restrict the ownership of real estate in the Territories to American citizens, and so forth," approved March third, eighteen hundred and eighty-seven, except so far as it affects real estate in the District of Columbia, be, and the same is hereby, amended so as to read as follows:

"That no alien or person who is not a citizen of the United States, or who has not declared his intention to become a citizen of the United States in the manner provided by law shall acquire title to or own any land in any of the Territories of the United States except as hereinafter provided: *Provided*, That the prohibition of this section shall not apply to cases in which the right to hold or dispose of lands in the United States is secured by existing treaties to citizens or subjects of foreign countries, which rights, so far as they may exist by force of any such treaty, shall

continue to exist so long as such treaties are in force, and no longer.

"SEC. 2. That this Act shall not apply to land now owned in any of the Territories of the United States by aliens, which was acquired on or before March third, eighteen hundred and eighty-seven, so long as it is held by the then owners, their heirs or legal representatives, nor to any alien who shall become a bona fide resident of the United States, and any alien who shall become a bona fide resident of the United States, or shall have declared his intention to become a citizen of the United States in the manner provided by law, shall have the right to acquire and hold lands in either of the Territories of the United States upon the same terms as citizens of the United States: *Provided*, That if any such resident alien shall cease to be a bona fide resident of the United States then such alien shall have ten years from the time he ceases to be such bona fide resident in which to alienate such lands. This Act shall not be construed to prevent any persons not citizens of the United States from acquiring or holding lots or parcels of lands in any incorporated or platted city, town, or village, or in any mine or mining claim, in any of the Territories of the United States.

"SEC. 3. That this Act shall not prevent aliens from acquiring lands or any interests therein by inheritance or in the ordinary course of justice in the collection of debts, nor from acquiring liens on real estate or any interest therein, nor from lending money and securing the same upon real estate or any interest therein; nor from enforcing any such lien, nor from acquiring and holding title to such real estate, or any interest therein, upon which a lien may have heretofore or may hereafter be fixed, or upon which a loan of money may have been heretofore or hereafter may be made and secured: *Provided, however*, That all lands so acquired shall be sold within ten years after title shall be perfected in him under said sale or the same shall escheat to the United States and be forfeited as hereinafter provided.

"SEC. 4. That any alien who shall hereafter hold lands in any of the Territories of the United States in contravention of the pro-

visions of this Act may nevertheless convey his title thereto at any time before the institution of escheat proceedings as hereinafter provided: *Provided, however*, That if any such conveyance shall be made by such alien, either to an alien or to a citizen of the United States, in trust and for the purpose and with the intention of evading the provisions of this Act, such conveyance shall be null and void, and any such lands so conveyed shall be forfeited and escheat to the United States.

"SEC. 5. That it shall be the duty of the Attorney-General of the United States, when he shall be informed or have reason to believe that land in any of the Territories of the United States are [*is*] being held contrary to the provisions of this Act, to institute or cause to be instituted suit in behalf of the United States in the district court of the Territory in the district where such land or a part thereof may be situated, praying for the escheat of the same on behalf of the United States to the United States: *Provided*, That before any such suit is instituted the Attorney-General shall give or cause to be given ninety days' notice by registered letter of his intention to sue, or by personal notice directed to or delivered to the owner of said land, or the person who last rendered the same for taxation, or his agent, and to all other persons having an interest in such lands of which he may have actual or constructive notice. In the event personal notice can not be obtained in some one of the modes above provided, then said notice shall be given by publication in some newspaper published in the county where the land is situate, and if no newspaper is published in said county then the said notice shall be published in some newspaper nearest said county.

"SEC. 6. That if it shall be determined upon the trial of any such escheat proceedings that the lands are held contrary to the provisions of this Act, the court trying said cause shall render judgment condemning such lands and shall order the same to be sold as under execution; and the proceeds of such sale, after deducting costs of such suit, shall be paid to the clerk of such court so rendering judgment, and said fund shall remain in the hands of such clerk for one year from the date of such payment, subject to

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the order of the alien owner of such lands, or his heirs or legal representatives; and if not claimed within the period of one year, such clerk shall pay the same into the treasury of the Territory in which the lands may be situated, for the benefit of the available school fund of said Territory: *Provided*, That the defendant in any such escheat proceedings may, at any time before final judgment, suggest and show to the court that he has conformed with the law, either [*by*] becoming a bona fide resident of the United States, or by declaring his intention of becoming a citizen of the United States, or by the doing or happening of any other act which, under the provisions of this Act, would entitle him to hold or own real estate, which being admitted or proved, such suit shall be dismissed on payment of costs and a reasonable attorney fee to be fixed by the court.

"SEC. 7. That this Act shall not in any manner be construed to refer to the District of Columbia, nor to authorize aliens to acquire title from the United States to any of the public lands of the United States or to in any manner affect or change the laws regulating the disposal of the public lands of the United States. And the Act of which this Act is an amendment shall remain in force and unchanged by this Act so far as it refers to or affects real estate in the District of Columbia.

"SEC. 8. That all laws and parts of laws so far as they conflict with the provisions of this Act are hereby repealed."

APPROVED, March 2, 1897.

No. 128. Recognition of the Independence of Cuba

April 20, 1898

IN his annual message of December 6, 1897, President McKinley reviewed the course of the insurrection which had been in progress in Cuba since February, 1895, but opposed the recognition of Cuban belligerency. A resolution recognizing the independence of Cuba, being the same as the resolu-

tion finally adopted, but without the fourth section, was reported in the Senate, April 13, 1898, by Cushman K. Davis of Minnesota, from the Committee on Foreign Relations. An amendment offered on the 16th by David Turpie of Indiana, recognizing the Republic of Cuba "as the true and lawful government of that island," was agreed to by a vote of 51 to 37, and, with the further addition of the fourth section, offered as an amendment by Davis, the resolution passed. A resolution directing the President to intervene to put an end to the war in Cuba "to the end and with the purpose of securing permanent peace and order there and establishing by the free action of the people thereof a stable and independent government of their own," was reported in the House, April 13, by Robert Adams of Pennsylvania, from the Committee on Foreign Affairs, as a substitute for numerous bills and resolutions previously submitted. A substitute recognizing the independence of the Republic of Cuba, offered by Albert S. Berry of Kentucky on behalf of the minority of the committee, was rejected by a vote of 150 to 190, and the resolution was agreed to, the final vote being 324 to 19. In the Senate, April 16, the House resolution was substituted for the resolution already before the Senate, and then amended by striking out the words of the House resolution and inserting the resolution of the Senate. On the 18th the House concurred with an amendment, offered by Nelson Dingley of Maine, striking out the clause recognizing the Republic of Cuba, the vote being 178 to 156. The Senate refusing to concur in the House amendment, the resolution went to a conference committee, which reported inability to agree, and a second committee settled the final form of the resolution. The report of the second committee was agreed to in the House by a vote of 311 to 6, and in the Senate by a vote of 42 to 35.

References. — *Text* in *U.S. Statutes at Large*, XXX, 738, 739. For the proceedings see the *House and Senate Journals*, 55th Cong., 2d Sess., and the *Cong. Record*. See also *Senate Report 885; Senate Doc. 166* and *Senate Report 1160*, 54th Cong., 2d Sess.; and the various messages of the President. A large amount of documentary matter was printed in the *Record* in the course of the debate.

Joint Resolution for the recognition of the independence of the people of Cuba, demanding that the Government of Spain relinquish its authority and government in the Island of Cuba, and to withdraw its land and naval forces from Cuba and Cuban waters, and directing the President of the United States to use the land and naval forces of the United States to carry these resolutions into effect.

Whereas the abhorrent conditions which have existed for more than three years in the Island of Cuba, so near our own borders, have shocked the moral sense of the people of the United States,

have been a disgrace to Christian civilization, culminating, as they have, in the destruction of a United States battle ship, with two hundred and sixty-six of its officers and crew, while on a friendly visit in the harbor of Havana, and can not longer be endured, as has been set forth by the President of the United States in his message to Congress of April eleventh, eighteen hundred and ninety-eight, upon which the action of Congress was invited: Therefore,

Resolved . . ., First. That the people of the Island of Cuba are, and of right ought to be, free and independent.

Second. That it is the duty of the United States to demand, and the Government of the United States does hereby demand, that the Government of Spain at once relinquish its authority and government in the Island of Cuba and withdraw its land and naval forces from Cuba and Cuban waters.

Third. That the President of the United States be, and he hereby is, directed and empowered to use the entire land and naval forces of the United States, and to call into the actual service of the United States the militia of the several States, to such extent as may be necessary to carry these resolutions into effect.

Fourth. That the United States hereby disclaims any disposition or intention to exercise sovereignty, jurisdiction, or control over said Island except for the pacification thereof, and asserts its determination, when that is accomplished, to leave the government and control of the Island to its people.

Approved, April 20, 1898.

No. 129. Declaration of War

April 25, 1898

The destruction of the battleship *Maine* in the harbor of Havana, on the night of February 15, 1898, was followed, March 9, by the appropriation of $50,000,000 for the national defence. An account of the *Maine* affair, together with the findings of the court of inquiry, was laid before Congress

by President McKinley in his message of March 28. April 11 the President asked for authority to intervene and end the war in Cuba. On the 22d a blockade of the north coast of Cuba, and of Cienfuegos on the south coast, was proclaimed, and on the next day 125,000 volunteers were called for under authority of the joint resolution of April 20 [No. 128]. On the 25th the President announced the withdrawal of the Spanish minister, and recommended a declaration of war. A joint resolution was at once introduced in the House by Adams of Pennsylvania, from the Committee on Foreign Affairs, and passed both houses the same day without divisions. A proclamation regarding neutrals was issued April 26. May 25 a call for 75,000 additional volunteers was issued. By a proclamation of June 27, the blockade was extended to the whole of the south coast of Cuba, and to San Juan, Porto Rico. Acts of July 8, 1898, and March 3, 1899, provided for the reimbursement to States of the expenses incurred by them on account of the war.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XXX, 364. For the proceedings see the *House and Senate Journals*, 55th Cong., 2d Sess., and the *Cong. Record*. There was no debate in the House, and the discussion in the Senate was with closed doors. For the correspondence with Spain see the *Foreign Relations*, 1897 and 1898. The report of the *Maine* court of inquiry is *Senate Doc. 207*, 55th Cong., 2d Sess.; the report on the investigation of the War Department, *Senate Doc. 221*, 56th Cong., 1st Sess.; the "beef" inquiry, *Senate Doc. 270*, *ibid.* See also *Notes on the Spanish-American War*, *Senate Doc. 288*, *ibid.*

An Act declaring that war exists between the United States of America and the Kingdom of Spain.

Be it enacted . . ., First. That war be, and the same is hereby, declared to exist, and that war has existed since the twenty-first day of April, anno Domini eighteen hundred and ninety-eight, including said day, between the United States of America and the Kingdom of Spain.

Second. That the President of the United States be, and he hereby is, directed and empowered to use the entire land and naval forces of the United States, and to call into the actual service of the United States the militia of the several States, to such extent as may be necessary to carry this Act into effect.

APPROVED, April 25, 1898.

No. 130. Annexation of the Hawaiian Islands

July 7, 1898

In January, 1893, Queen Liliuokalani of the Hawaiian Islands was forced to abdicate, and a provisional government was proclaimed, followed in July, 1894, by the establishment of a republic. The constitution of the republic expressly authorized a treaty of "political or commercial union" with the United States. A treaty of annexation, concluded in 1893, was withdrawn by President Cleveland. A second treaty was signed June 16, 1897, and ratified by the Senate of Hawaii. On the outbreak of the war with Spain the United States assumed to use the islands as a naval base. May 4, 1898, while the treaty of annexation was pending, Francis G. Newlands of Nevada introduced a joint resolution for annexation, the resolution being one of several similar propositions which had been submitted to Congress. The terms proposed by the resolution were substantially the same as those embodied in the pending treaty. The resolution was reported without amendment May 17, but was not taken up until June 11. On the 15th a substitute declaring against the acquisition of the islands by any foreign power, and guaranteeing their independence, was rejected by a vote of 96 to 204, and the resolution passed, the final vote being 209 to 91. The resolution was reported in the Senate June 17 without amendment, taken up on the 20th, and debated until July 6, when, by a vote of 42 to 21, it was agreed to. The formal transfer of the islands took place August 12. An act of April 30, 1900, provided a territorial form of government.

References. — *Text* in *U.S. Statutes at Large*, XXX, 750, 751. For the proceedings see the *House and Senate Journals*, 55th Cong., 2d Sess., and the *Cong. Record*. See also *Senate Report 681* and *House Report 1355*. The report of the Hawaiian commission is *Senate Doc. 16*, 55th Cong., 3d Sess. On the earlier relations with Hawaii see *Senate Report 227* and *House Exec. Doc. 47*, 53d Cong., 2d Sess.

Joint Resolution To provide for annexing the Hawaiian Islands to the United States.

Whereas the Government of the Republic of Hawaii having, in due form, signified its consent, in the manner provided by its constitution, to cede absolutely and without reserve to the United States of America all rights of sovereignty of whatsoever kind in and over the Hawaiian Islands and their dependencies, and also

to cede and transfer to the United States the absolute fee and ownership of all public, Government, or Crown lands, public buildings or edifices, ports, harbors, military equipment, and all other public property of every kind and description belonging to the Government of the Hawaiian Islands, together with every right and appurtenance thereunto appertaining: Therefore,

Resolved . . ., That said cession is accepted, ratified, and confirmed, and that the said Hawaiian Islands and their dependencies be, and they are hereby, annexed as a part of the territory of the United States and are subject to the sovereign dominion thereof, and that all and singular the property and rights hereinbefore mentioned are vested in the United States of America.

The existing laws of the United States relative to public lands shall not apply to such lands in the Hawaiian Islands; but the Congress of the United States shall enact special laws for their management and disposition: *Provided*, That all revenue from or proceeds of the same, except as regards such part thereof as may be used or occupied for the civil, military, or naval purposes of the United States, or may be assigned for the use of the local government, shall be used solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes.

Until Congress shall provide for the government of such islands all the civil, judicial, and military powers exercised by the officers of the existing government in said islands shall be vested in such person or persons and shall be exercised in such manner as the President of the United States shall direct; and the President shall have power to remove said officers and fill the vacancies so occasioned.

The existing treaties of the Hawaiian Islands with foreign nations shall forthwith cease and determine, being replaced by such treaties as may exist, or as may be hereafter concluded, between the United States and such foreign nations. The municipal legislation of the Hawaiian Islands, not enacted for the fulfillment of the treaties so extinguished, and not inconsistent with this joint resolution nor contrary to the Constitution of the United States nor to any existing treaty of the United States, shall

remain in force until the Congress of the United States shall otherwise determine.

Until legislation shall be enacted extending the United States customs laws and regulations to the Hawaiian Islands the existing customs relations of the Hawaiian Islands with the United States and other countries shall remain unchanged.

The public debt of the Republic of Hawaii, lawfully existing at the date of the passage of this joint resolution, including the amounts due to depositors in the Hawaiian Postal Savings Bank, is hereby assumed by the Government of the United States; but the liability of the United States in this regard shall in no case exceed four million dollars. So long, however, as the existing Government and the present commercial relations of the Hawaiian Islands are continued as hereinbefore provided said Government shall continue to pay the interest on said debt.

There shall be no further immigration of Chinese into the Hawaiian Islands, except upon such conditions as are now or may hereafter be allowed by the laws of the United States; and no Chinese, by reason of anything herein contained, shall be allowed to enter the United States from the Hawaiian Islands.

The President shall appoint five commissioners, at least two of whom shall be residents of the Hawaiian Islands, who shall, as soon as reasonably practicable, recommend to Congress such legislation concerning the Hawaiian Islands as they shall deem necessary or proper.

SEC. 2. That the commissioners hereinbefore provided for shall be appointed by the President, by and with the advice and consent of the Senate.

SEC. 3. That the sum of one hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, and to be immediately available, to be expended at the discretion of the President of the United States of America, for the purpose of carrying this joint resolution into effect.

APPROVED, July 7, 1898.

No. 131. Treaty of Paris

December 10, 1898

OVERTURES for peace between the United States and Spain were begun July 26, 1898, through Jules Cambon, the French ambassador, resulting, August 12, in the signing of a protocol and the suspension of hostilities. Commissioners on the part of the United States were named August 26, Senator George Gray of Delaware being appointed, September 9, in place of Justice Edward D. White, who declined to serve. The commissioners of the two countries met at Paris October 1, and December 10 concluded a treaty of peace. The Senate ratified the treaty February 6, 1899, and April 11 the treaty was proclaimed. The appropriation of $20,000,000 called for by Article III was made March 2.

REFERENCES. — *Text* in *U.S. Statutes at Large*, XXX, 1754–1762. For the protocols and other documents see *Senate Doc. 62*, 55th Cong., 3d Sess.

THE UNITED STATES OF AMERICA AND HER MAJESTY THE QUEEN REGENT OF SPAIN, IN THE NAME OF HER AUGUST SON DON ALFONSO XIII, desiring to end the state of war now existing between the two countries, have for that purpose appointed as Plenipotentiaries:

THE PRESIDENT OF THE UNITED STATES,

WILLIAM R. DAY, CUSHMAN K. DAVIS, WILLIAM P. FRYE, GEORGE GRAY, and WHITELAW REID, citizens of the United States;

AND HER MAJESTY THE QUEEN REGENT OF SPAIN,

DON EUGENIO MONTERO RÍOS, President of the Senate,

DON BUENAVENTURA DE ABARZUZA, Senator of the Kingdom, and ex-Minister of the Crown,

DON JOSÉ DE GARNICA, Deputy to the Cortes and Associate Justice of the Supreme Court;

DON WENCESLAO RAMIREZ DE VILLA-URRUTIA, Envoy Extraordinary and Minister Plenipotentiary at Brussels, and

DON RAFAEL CERERO, General of Division;

Who, having assembled in Paris, and having exchanged their full powers, which were found to be in due and proper form, have, after discussion of the matters before them, agreed upon the following articles:

ARTICLE I.

Spain relinquishes all claim of sovereignty over and title to Cuba.

And as the island is, upon its evacuation by Spain, to be occupied by the United States, the United States will, so long as such occupation shall last, assume and discharge the obligations that may under international law result from the fact of its occupation, for the protection of life and property.

ARTICLE II.

Spain cedes to the United States the island of Porto Rico and other islands now under Spanish sovereignty in the West Indies, and the island of Guam in the Marianas or Ladrones.

ARTICLE III.

Spain cedes to the United States the archipelago known as the Philippine Islands, and comprehending the islands lying within the following line:

A line running from west to east along or near the twentieth parallel of north latitude, and through the middle of the navigable channel of Bachi, from the one hundred and eighteenth (118th) to the one hundred and twenty seventh (127th) degree meridian of longitude east of Greenwich, thence along the one hundred and twenty seventh (127th) degree meridian of longitude east of Greenwich to the parallel of four degrees and forty five minutes (4° 45′) north latitude, thence along the parallel of four degrees and forty five minutes (4° 45′) north latitude to its intersection with the meridian of longitude one hundred and nineteen degrees and thirty five minutes (119° 35′) east of Greenwich, thence along the meridian of longitude one hundred and nineteen degrees and thirty five minutes (119° 35′) east of Greenwich to the parallel of latitude seven degrees and forty minutes (7° 40′) north, thence along the parallel of latitude seven degrees and forty minutes (7° 40′) north to its intersection with the one hundred and sixteenth (116th) degree meridian of longitude

east of Greenwich, thence by a direct line to the intersection of the tenth (10th) degree parallel of north latitude with the one hundred and eighteenth (118th) degree meridian of longitude east of Greenwich, and thence along the one hundred and eighteenth (118th) degree meridian of longitude east of Greenwich to the point of beginning.

The United States will pay to Spain the sum of twenty million dollars ($20,000,000) within three months after the exchange of the ratifications of the present treaty.

Article IV.

The United States will, for the term of ten years from the date of the exchange of the ratifications of the present treaty, admit Spanish ships and merchandise to the ports of the Philippine Islands on the same terms as ships and merchandise of the United States.

Article V.

The United States will, upon the signature of the present treaty, send back to Spain, at its own cost, the Spanish soldiers taken as prisoners of war on the capture of Manila by the American forces. The arms of the soldiers in question shall be restored to them.

Spain will, upon the exchange of the ratifications of the present treaty, proceed to evacuate the Philippines, as well as the island of Guam, on terms similar to those agreed upon by the Commissioners appointed to arrange for the evacuation of Porto Rico and other islands in the West Indies, under the Protocol of August 12, 1898, which is to continue in force till its provisions are completely executed.

The time within which the evacuation of the Philippine Islands and Guam shall be completed shall be fixed by the two Governments. Stands of colors, uncaptured war vessels, small arms, guns of all calibres, with their carriages and accessories, powder, ammunition, live stock, and materials and supplies of all kinds,

belonging to the land and naval forces of Spain in the Philippines and Guam, remain the property of Spain. Pieces of heavy ordnance, exclusive of field artillery, in the fortifications and coast defences, shall remain in their emplacements for the term of six months, to be reckoned from the exchange of ratifications of the treaty; and the United States may, in the meantime, purchase such material from Spain, if a satisfactory agreement between the two Governments on the subject shall be reached.

Article VI.

Spain will, upon the signature of the present treaty, release all prisoners of war, and all persons detained or imprisoned for political offences, in connection with the insurrections in Cuba and the Philippines and the war with the United States.

Reciprocally, the United States will release all persons made prisoners of war by the American forces, and will undertake to obtain the release of all Spanish prisoners in the hands of the insurgents in Cuba and the Philippines.

The Government of the United States will at its own cost return to Spain and the Government of Spain will at its own cost return to the United States, Cuba, Porto Rico, and the Philippines, according to the situation of their respective homes, prisoners released or caused to be released by them, respectively, under this article.

Article VII.

The United States and Spain mutually relinquish all claims for indemnity, national and individual, of every kind, of either Government, or of its citizens or subjects, against the other Government, that may have arisen since the beginning of the late insurrection in Cuba and prior to the exchange of ratifications of the present treaty, including all claims for indemnity for the cost of the war.

The United States will adjudicate and settle the claims of its citizens against Spain relinquished in this article.

ARTICLE VIII.

In conformity with the provisions of Articles I, II, and III of this treaty, Spain relinquishes in Cuba, and cedes in Porto Rico and other islands in the West Indies, in the island of Guam, and in the Philippine Archipelago, all the buildings, wharves, barracks, forts, structures, public highways and other immovable property which, in conformity with law, belong to the public domain, and as such belong to the Crown of Spain.

And it is hereby declared that the relinquishment or cession, as the case may be, to which the preceding paragraph refers, cannot in any respect impair the property or rights which by law belong to the peaceful possession of property of all kinds, of provinces, municipalities, public or private establishments, ecclesiastical or civic bodies, or any other associations having legal capacity to acquire and possess property in the aforesaid territories renounced or ceded, or of private individuals, of whatsoever nationality such individuals may be.

The aforesaid relinquishment or session, as the case may be, includes all documents exclusively referring to the sovereignty relinquished or ceded that may exist in the archives of the Peninsula. Where any document in such archives only in part relates to said sovereignty, a copy of such part will be furnished whenever it shall be requested. Like rules shall be reciprocally observed in favor of Spain in respect of documents in the archives of the islands above referred to.

In the aforesaid relinquishment or cession, as the case may be, are also included such rights as the Crown of Spain and its authorities possess in respect of the official archives and records, executive as well as judicial, in the islands above referred to, which relate to said islands or the rights and property of their inhabitants. Such archives and records shall be carefully preserved, and private persons shall without distinction have the right to require, in accordance with law, authenticated copies of the contracts, wills and other instruments forming part of notarial protocols or files, or which may be contained in the executive or judicial archives, be the latter in Spain or in the islands aforesaid.

ARTICLE IX.

Spanish subjects, natives of the Peninsula, residing in the territory over which Spain by the present treaty relinquishes or cedes her sovereignty, may remain in such territory or may remove therefrom, retaining in either event all their rights of property, including the right to sell or dispose of such property or of its proceeds; and they shall also have the right to carry on their industry, commerce and professions, being subject in respect thereof to such laws as are applicable to other foreigners. In case they remain in the territory they may preserve their allegiance to the Crown of Spain by making, before a court of record, within a year from the date of the exchange of ratifications of this treaty, a declaration of their decision to preserve such allegiance; in default of which declaration they shall be held to have renounced it and to have adopted the nationality of the territory in which they may reside.

The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress.

ARTICLE X.

The inhabitants of the territories over which Spain relinquishes or cedes her sovereignty shall be secured in the free exercise of their religion.

ARTICLE XI.

The Spaniards residing in the territories over which Spain by this treaty cedes or relinquishes her sovereignty shall be subject in matters civil as well as criminal to the jurisdiction of the courts of the country wherein they reside, pursuant to the ordinary laws governing the same; and they shall have the right to appear before such courts, and to pursue the same course as citizens of the country to which the courts belong.

ARTICLE XII.

Judicial proceedings pending at the time of the exchange of ratifications of this treaty in the territories over which Spain relin-

quishes or cedes her sovereignty shall be determined according to the following rules:

1. Judgments rendered either in civil suits between private individuals, or in criminal matters, before the date mentioned, and with respect to which there is no recourse or right of review under the Spanish law, shall be deemed to be final, and shall be executed in due form by competent authority in the territory within which such judgments should be carried out.

2. Civil suits between private individuals which may on the date mentioned be undetermined shall be prosecuted to judgment before the court in which they may then be pending or in the court that may be substituted therefor.

3. Criminal actions pending on the date mentioned before the Supreme Court of Spain against citizens of the territory which by this treaty ceases to be Spanish shall continue under its jurisdiction until final judgment; but, such judgment having been rendered, the execution thereof shall be committed to the competent authority of the place in which the case arose.

Article XIII.

The rights of property secured by copyrights and patents acquired by Spaniards in the Island of Cuba, and in Porto Rico, the Philippines and other ceded territories, at the time of the exchange of the ratifications of this treaty, shall continue to be respected. Spanish scientific, literary and artistic works, not subversive of public order in the territories in question, shall continue to be admitted free of duty into such territories, for the period of ten years, to be reckoned from the date of the exchange of the ratifications of this treaty.

Article XIV.

Spain shall have the power to establish consular officers in the ports and places of the territories, the sovereignty over which has been either relinquished or ceded by the present treaty.

ARTICLE XV.

The Government of each country will, for the term of ten years, accord to the merchant vessels of the other country the same treatment in respect of all port charges, including entrance and clearance dues, light dues, and tonnage duties, as it accords to its own merchant vessels, not engaged in the coastwise trade.

This article may at any time be terminated on six months' notice given by either Government to the other.

ARTICLE XVI.

It is understood that any obligations assumed in this treaty by the United States with respect to Cuba are limited to the time of its occupancy thereof; but it will upon the termination of such occupancy, advise any Government established in the island to assume the same obligations.

ARTICLE XVII.

The present treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by Her Majesty the Queen Regent of Spain; and the ratifications shall be exchanged at Washington within six months from the date hereof, or earlier if possible.

In faith whereof, we, the respective Plenipotentiaries, have signed this treaty and have hereunto affixed our seals.

Done in duplicate[1] at Paris, the tenth day of December, in the year of Our Lord one thousand eight hundred and ninety-eight.

[SEAL.]	WILLIAM. R. DAY.
[SEAL.]	CUSHMAN K. DAVIS.
[SEAL.]	WM. P. FRYE.
[SEAL.]	GEO. GRAY.
[SEAL.]	WHILELAW REID.

[1] In Spanish and English, the representatives of Spain signing the Spanish text.

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